

EXHIBIT 51



Transcript of the Deposition of
Reginald Hill

Case: James Fletcher Jr. v. Jerome Bogucki; et al.
Taken On: January 17, 2024

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES FLETCHER JR.,)	
)	
Plaintiff,)	
)	
v.)	No. 20 CV 4768
)	
JEROME BOGUCKI, ANTHONY NORADIN,)	
RAYMOND SCHALK, ANTHONY WOJCIK,)	
UNKNOWN CITY OF CHICAGO POLICE)	
OFFICERS, and the CITY OF)	
CHICAGO,)	
)	
Defendants.)	

The deposition of REGINALD HILL, taken via videoconference, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, before Amie Panagakos, CSR No. 084-4720, and Susan J. Gardner, CSR No. 084-4155, Certified Shorthand Reporters in the State of Illinois, commencing at 10:54 a.m. on the 17th day of January, A.D., 2024.

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22
23 * * * * *
24

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1 (Witness sworn.)

2 WHEREUPON:

3 REGINALD HILL,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MS. WEST:

8 Q. Good morning, again, Mr. Hill. Can you state
9 your full name for the record, please.

10 A. My name is Reginald, middle initial J, last
11 name, Hill, H I L L.

12 Q. And I know I previously introduced myself off
13 the record, but I will do so again. My name is Allyson
14 West. I represent some defendant officers that have
15 been sued in a lawsuit by Mr. James Fletcher. My first
16 question to you is have you ever been deposed?

17 A. Yes.

18 Q. And have you ever taken a deposition?

19 A. Yes.

20 Q. So I'm not going to bore you with any of the
21 ground rules because of that. But I will say if at any
22 point you need to take a break, please let me know and
23 we'll take a break whenever you need to. Understand?

24 A. Yes.

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1 **Q. Mr. Hill, are you a licensed attorney?**

2 A. I am.

3 **Q. How long have you been licensed to practice**
4 **law?**

5 A. I believe since about November of 1994.

6 **Q. And where are you currently employed?**

7 A. I'm a partner at Jenner & Block.

8 **Q. How long have you been employed by Jenner &**
9 **Block?**

10 A. I returned to the firm in September of 2022 --
11 I'm sorry -- September 2002. So if my math is right,
12 it's almost 22 years since I returned. I previously was
13 employed at the firm after graduating from law school
14 starting in about September of 1994 until about January
15 or February of 1998 when I left the firm.

16 **Q. When you left in 1998, where did you -- what**
17 **type of law did you practice?**

18 A. I'm sorry. When I left? Before I left or you
19 mean after I left? I'm not sure what you're ...

20 **Q. Sure. So let me ask you --**

21 A. I didn't understand the question.

22 **Q. Yeah. So you said that after law school, you**
23 **were employed by Jenner from 1994 to 1998; is that**
24 **right?**

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1 A. That's right.

2 Q. Okay. And then in 1998, did you go work for
3 another firm?

4 A. I did go work for another firm in 1998.

5 Q. Okay. Who did you work for in 1998?

6 A. In 1998 after I left Jenner & Block, I started
7 to work for a law firm by the name of Ryndak & Lyerla.
8 And Ryndak is R Y N D A k and Lyerla is L Y E R L A.

9 Q. And how long did you work there?

10 A. I worked there about a year.

11 Q. And then after that year, where were you
12 employed?

13 A. After that, I started my own law firm.

14 Q. And how long did you have your own law firm?

15 A. From about January of 1999 until September
16 of 2002.

17 Q. And then in September of 2002, did you go to a
18 different law firm?

19 A. In September of 2002 is when I returned to
20 Jenner & Block.

21 Q. And you've remained at Jenner & Block since
22 September of 2002; is that right?

23 A. Yes.

24 Q. What type of law do you currently practice?

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1 A. Currently my focus is intellectual property.
2 I'm a cochair of the patent litigation practice here at
3 the firm.

4 **Q. Do you have any prior criminal defense**
5 **experience other than -- and we'll talk about that**
6 **later -- other than your experience with Mr. Fletcher's**
7 **case?**

8 A. Yes.

9 **Q. Can you tell me when you previously worked in**
10 **the capacity as a criminal defense attorney?**

11 A. Well, I've worked principally in some number
12 of pro bono matters while employed -- since I've been a
13 lawyer, including -- and those pro bono matters included
14 some criminal cases probably starting from the time that
15 I first started at the firm in 1994. So over the years,
16 I've handled a number of criminal cases.

17 **Q. And when you were -- when you had your own**
18 **firm, did you work as a criminal defense attorney in any**
19 **capacity?**

20 A. I continued some pro bono work even when I was
21 a lawyer on my own, and I handled a few -- maybe more
22 than a few criminal cases in the course of having my own
23 firm.

24 **Q. Do you know who James Fletcher is?**

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1 A. Yes, I believe so. I only know one James
2 Fletcher.

3 **Q. Do you have an independent recollection of**
4 **working on a criminal case on behalf of Mr. James**
5 **Fletcher?**

6 A. Yes.

7 **Q. Do you have a recollection of when you first**
8 **became involved in Mr. Fletcher's criminal defense?**

9 A. Not really. I don't have a recollection of
10 the time frame. It was after I returned to Jenner &
11 Block in 2002.

12 **Q. Okay. And I'd like to show you a few**
13 **documents to see if we can kind of pinpoint the time**
14 **period. I'll show you what we'll mark as Exhibit 1.**

15 MS. WEST: And, Ashley, for you, this is the
16 July 15th, 2002 letter from Mr. Fletcher to the CBA, and
17 it's Bates-stamped Fletcher 8512. And I'll share it as
18 well if that's helpful.

19 MR. STARR: And, Allyson, before you share your
20 screen, I'm just going to make a record that any
21 communications that were inadvertently produced by
22 plaintiff in the course of this civil case that you are
23 in possession of, we have indicated this morning that
24 we're now aware of and we intend to claw them back. I

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1 will certainly let you take whatever position you want
2 to take on the record, but it's our position that
3 inadvertent production of privileged materials is --
4 once we've indicated that we intend to claw them back,
5 that any use of them in this deposition or otherwise is
6 in violation of the protective order in this case, in
7 violation of the protection rules of conduct, and we
8 intend to pursue that with the Court. That's our
9 position. You've indicated that you intend to move
10 forward with this deposition and use those documents
11 over our objection, but I'll let you make your record.

12 MS. WEST: Okay. And, Sean, I'll respond to you,
13 but I also would like -- because not all of these, I
14 don't -- actually, I don't know. You didn't specify
15 which communications you're referring to. So like for
16 example, Exhibit 1 is a letter from Mr. Fletcher to the
17 CBA, which would not be subject to attorney/client
18 communication. He's sending it to an outside agency. I
19 just want to confirm that with you.

20 MR. STARR: Yeah, you know, I haven't had time to
21 review them in depth. I saw there was a number of
22 communications that Mr. Fletcher has had with attorneys.
23 You know, I would have to think about whether or not --
24 I don't know if he was ever represented by anybody at

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1 the bar association and so that's a fair question on
2 your part. But I know that there's other documents that
3 you've produced this morning half an hour before the dep
4 began that are subject to that privilege.

5 MS. WEST: Okay. If you could, as we go through
6 them, specify which ones you're claiming. That way I
7 know. And then we can make a record as we go.

8 MR. STARR: Yeah. I mean, again, I think you're in
9 violation of -- use of any of those communications are
10 in violation of the protective order. We have clawed
11 them back. They are in violation of the rules of
12 professional conduct. I think you have an ethical
13 obligation to not use them today for this deposition.

14 MS. WEST: Okay. I'll respond to that and then
15 I'll reiterate what I'm asking you to do. So as you
16 know, Sean, we had a call before this deposition and we
17 discussed this. The production that you guys made -- So
18 Jenner & Block produced their entire file to Loevy &
19 Loevy, and Loevy & Loevy produced documents on
20 September 22nd of 2022. A privilege log came with that.
21 These documents that I intend to use during the
22 deposition were not -- attorney/client privilege was not
23 asserted over the documents. In fact, there were
24 documents that attorney/client privilege was asserted

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1 over, and these were not among them. And then again in
2 May of 2023, the privilege log was again revised and
3 amended by your firm, and again these documents were not
4 among them. As I indicated on my call with you earlier,
5 it's my position that while plaintiff asserted privilege
6 over certain documents but not these, it was my
7 understanding that that was intentional. How was I to
8 know that it was inadvertent if it never came to light?
9 Not to mention the fact that the communications have
10 been produced for over a year and a half, and this is
11 the first time that you raised it. And you raised it
12 15 minutes before the deposition when I sent the
13 documents ahead of the deposition that I planned on
14 using as exhibits. I told you that I thought that it
15 was in plaintiff's interest to file a protective order.
16 You disagreed, and you stated your position that you had
17 already articulated to me on the record already.

18 So our plan is to move forward with the
19 deposition. And you can make your record like we
20 discussed. But I would ask, though, as we go along --
21 because not all of these documents are what I would
22 consider attorney/client communication, if you could, I
23 would appreciate it, tell me, what you are asserting
24 privilege over and what you think is improper use of.

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1 For example, this first letter and then there's also
2 some court filings, and you've just kind of given a
3 blanket objection. So if you could, I would appreciate
4 it, tell me which documents you are, in fact, asserting
5 the privilege over, and then we would -- we can mark
6 those confidential like we discussed until we hash this
7 out with the Court at a later time.

8 MR. STARR: Sure. And if I can respond to that, I
9 would say that obviously the timing is not ideal. I
10 became aware of these documents, that these documents
11 were inadvertently produced when you shared them this
12 morning, like you said, 30 minutes or so before the
13 deposition was set to commence. And at that point, I
14 indicated to you and to all counsel on that e-mail that
15 they contain inadvertent production that we intended to
16 claw back. Certainly not all the documents that you
17 shared as exhibits are privileged. Court filings are
18 not privileged. I'm not asserting any privilege over
19 them. Any communications with a would-be attorney or an
20 attorney between Mr. Fletcher and his counsel, we think
21 are privileged communications. And you indicated to me
22 that during previous meet and confers over the privilege
23 log that, you know, defense counsel was aware that this
24 stuff had been produced. It's our position that you

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1 should have indicated at that point in time that you had
2 an ethical obligation to indicate to us that we had
3 inadvertently produced things. Certain communications
4 were withheld and other communications inadvertently
5 were produced. I think that that by itself indicates
6 that you should have communicated to us that there was a
7 question about certain documents that you received. You
8 didn't do that.

9 At this conjunction, we are asserting our
10 privilege, and we've indicated to you that we want to
11 claw them back. So this CBA document, I'm going to
12 assert that this CBA document constitutes communications
13 with a prospective counsel, and I'm going to assert that
14 privilege over the CBA document just to be safe.

15 MS. WEST: I'm just going to respond to that
16 briefly with regard to the meet and confer. And I've
17 articulated to you previously, Sean, it's not our job to
18 do your job. The documents were sent from Jenner &
19 Block to Loevy & Loevy for a privilege review; then they
20 were sent to all counsel of record. Whether or not the
21 counsel -- I don't know what meet and confers exactly
22 you're referring to because I wasn't a part of them
23 related to the Jenner & Block production, but it isn't
24 our responsibility to say that you inadvertently

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1 produced documents. It's your job to claim the
2 privilege over them. We don't hold the privilege. You
3 do. So for you to say that, I mean, anyway I'm just
4 responding to that. I don't think it's our
5 responsibility to set forth documents and tell you how
6 to do your job because, in fact, it could be that you
7 strategically chose to disclose certain documents and
8 not others. That's not our job to make that decision.
9 It's yours. But I understand your position with regard
10 to the CBA. So, Ms. Court Reporter, if you could mark
11 Exhibit 1, if you could put it as confidential, please.
12 Thank you.

13 BY MS. WEST:

14 **Q. Sorry, Mr. Hill. Let's get back to the**
15 **document at hand here.**

16 (A document was viewed.)

17 BY MS. WEST:

18 **Q. Mr. Hill, I know you have a document in front**
19 **of you. Is that what is Bates-stamped 8512?**

20 **A. Yes, I have it in front of me, a document**
21 **that's Bates-stamped Fletcher 8512.**

22 **Q. Okay. And do you see at the top -- I have**
23 **also shared my screen -- the letter is from July 15th of**
24 **2002. Do you see that?**

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1 A. I see that in the letter.

2 **Q. Okay. My question -- Sorry about that. My**
3 **question to you is have you ever seen this letter**
4 **before?**

5 A. Not that I recall.

6 **Q. Do you know if Mr. Fletcher's request for pro**
7 **bono counsel came directly to Jenner or if it came**
8 **through the CBA?**

9 MR. STARR: I think that that is privileged as
10 well, so I'm going to assert the attorney/client
11 privilege here and instruct Mr. Hill that the privilege
12 is with my client and my client is invoking his
13 privilege.

14 BY MS. WEST:

15 **Q. So, Mr. Hill, I think at this point it is your**
16 **decision whether you want to answer the question. I**
17 **mean, Mr. Starr is not your counsel obviously, and you**
18 **know that, and you know how this works. So it's up to**
19 **you whether you choose to answer the question.**

20 MS. SCHUMACHER: This is Ashley Schumacher. If
21 Mr. Fletcher is asserting privilege over this topic, you
22 know, we agree with Mr. Fletcher's assertion of
23 privilege regarding this issue.

24 MS. WEST: Let me just say one thing. I don't see

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1 how communication between CBA and Jenner & Block is
2 privileged.

3 MR. STARR: I think the question about whether how
4 he came to be represented by Jenner is subject to the
5 privilege.

6 BY MS. WEST:

7 **Q. Let's ask it this way: Mr. Hill, do you have**
8 **a recollection of the CBA contacting you about**
9 **representing Mr. James Fletcher?**

10 A. I mean, I just heard two lawyers basically
11 instruct me not to answer the question. I don't hear a
12 pending objection. What was the question again?

13 **Q. Sure.**

14 MS. WEST: Ms. Court Reporter, would you mind
15 reading the question?

16 (Record read as requested.)

17 MR. STARR: And just to make this easy so as not to
18 slow this deposition down, I'm going to have -- if it's
19 all right with you, Allyson, I'm going to have a
20 standing objection to any communication -- to any
21 questions about communications that Mr. Hill had
22 regarding representation of Mr. Fletcher under
23 privileged grounds.

24 MS. WEST: I think if you could specify who because

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1 I don't think that's a proper blanket objection of
2 attorney/client privilege.

3 MR. STARR: Okay. Then I'll specify for each one.
4 So I object under privilege that communications that
5 Mr. Hill may have had with the CBA regarding
6 representation of Mr. Fletcher are privileged.

7 BY MS. WEST:

8 **Q. Mr. Hill, would you like the question repeated**
9 **again?**

10 A. Well, it's a little bit unclear to me whether
11 I'm being instructed not to answer the question and to
12 preserve Mr. Fletcher's privilege.

13 MR. STARR: Yes, I'm -- I would instruct -- I'm not
14 your counsel, but I would instruct you not to answer
15 based on Mr. Fletcher's privilege. Sorry to interrupt
16 you, sir.

17 THE WITNESS: It's no problem.

18 BY THE WITNESS:

19 A. In light of that instruction, I will not
20 answer the question.

21 **Q. Okay. Let me ask you this: Do you know how**
22 **Mr. Fletcher came to be a client of yours?**

23 MR. STARR: I think that's not privileged, I don't
24 think, if he knows how. I'm not going to instruct you,

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1 Mr. Hill.

2 MS. SCHUMACHER: If you can answer that question
3 without revealing word product or privilege, then it's
4 okay.

5 BY THE WITNESS:

6 A. I'm not sure the way your question is phrased
7 because Jimmy was a client of the firm. He wasn't my
8 client per se. I mean, he was my client because I work
9 at the firm. I forgot what the question was.

10 THE WITNESS: Can you read back the question?

11 (Record read as requested.)

12 MR. STARR: If you're asking him a yes/no question,
13 I don't believe there's privilege. If you're asking him
14 how did he become your client, I think that that's a
15 privileged question. It's invoking -- I'm going to
16 invoke Mr. Fletcher's privilege.

17 BY THE WITNESS:

18 A. I won't answer the question in view of the
19 instruction not to answer.

20 **Q. I'm simply asking a yes or no question,**
21 **though. I just want to know if you have a memory of how**
22 **he became to be a client of Jenner & Block?**

23 A. That's a different question, I think, do I
24 have a memory of how he became a client of Jenner &

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1 Block. I think the first question was do I have a
2 memory of how he became a client of mine. So which
3 question do you want me to answer?

4 **Q. All right. Let's ask the Jenner & Block**
5 **question. We'll start broadly here. Do you know how**
6 **Mr. Fletcher came to be a client of Jenner & Block?**

7 MR. STARR: I'm going to invoke the privilege and
8 instruct him not to answer.

9 MS. WEST: I disagree. I don't see how asking a
10 yes or no question as to whether or not he has knowledge
11 of how he became a client is attorney/client
12 communication at all.

13 MR. STARR: Okay. If it's a yes or no question,
14 then I'll withdraw that objection.

15 BY THE WITNESS:

16 A. I don't know.

17 **Q. Okay. Thank you. I'm going to show you what**
18 **we'll mark as Exhibit 2.**

19 MS. WEST: For the record, it is a conflict check
20 that was on August 19th, '02, and it's Bates-stamped
21 Fletcher 8508.

22 (A document was viewed.)

23 BY MS. WEST:

24 **Q. And I'm going to put it up on my screen.**

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1 **Mr. Hill, do you have the document that is Bates-stamped**
2 **Fletcher 8508 in front of you?**

3 A. Yes, I have that document in front of me.

4 MR. STARR: I'm going to indicate that this is
5 attorney work product, and I believe this is a
6 privileged document that should not have been produced.

7 MS. WEST: This is my opinion respectfully, Sean,
8 not your call to make. This isn't your work product.

9 MS. SCHUMACHER: Jenner & Block asserts privileged
10 work product over this document.

11 MS. WEST: Let me stop sharing the screen based on
12 the objection.

13 BY MS. WEST:

14 **Q. I just want to make sure I understand the**
15 **timeline. You didn't return to Jenner & Block until**
16 **after August of 2002; is that right?**

17 A. I believe I returned to Jenner & Block in
18 September of 2002.

19 **Q. Do you recall when you first began working on**
20 **Mr. Fletcher's case?**

21 A. I don't recall. It was after I came back to
22 work for Jenner & Block.

23 **Q. And do you have a memory of whether or not the**
24 **firm already had Mr. Fletcher's case when you returned**

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1 **to Jenner & Block in September of 2002?**

2 A. I don't remember exactly, but I believe so.

3 **Q. That Jenner & Block did, in fact, have**
4 **Mr. Fletcher's case prior to you returning?**

5 A. My memory is not completely clear on that
6 particular issue, and I'm not sure what you mean by "had
7 the case." But I do believe that it was after I
8 returned to Jenner & Block that I got involved in
9 Mr. Fletcher's case.

10 **Q. Do you have a recollection of the month and**
11 **year that you began working on Mr. Fletcher's case?**

12 A. I do not.

13 **Q. Let me show you what we'll mark as Exhibit 3.**

14 MS. WEST: For the record and counsel, it's a
15 letter dated August 12th, 2003, and it's Bates-stamped
16 Fletcher 8656 to 8657.

17 (A document was viewed.)

18 MR. STARR: And this is a document that plaintiff
19 invokes his privilege over -- the attorney/client
20 privilege over, one of the documents that we are clawing
21 back, and so we object. And I would instruct Mr. Hill
22 to not answer any questions about this document.

23 MS. WEST: Ashley, do you want to weigh in at all?

24 MS. SCHUMACHER: I mean, we defer to Mr. Fletcher's

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1 privilege here.

2 BY MS. WEST:

3 **Q. Let me ask you this, Mr. Hill --**

4 MS. WEST: And, Sean, I understand you need to make
5 your record so feel free.

6 BY MS. WEST:

7 **Q. Based on Exhibit 3 that you have in front of**
8 **you that we'll mark as confidential, does that letter**
9 **help you ground the time period in which you started**
10 **working specifically on Mr. Fletcher's case?**

11 MR. STARR: Same objection, same instruction.

12 BY THE WITNESS:

13 A. No.

14 **Q. Did you work on Mr. Fletcher's case with**
15 **Joseph Saltiel? And I apologize if I'm mispronouncing**
16 **his name.**

17 A. Yes, I did work on the case with Joseph
18 Saltiel.

19 **Q. In August of 2003, what was your title at**
20 **Jenner & Block?**

21 A. In August of 2003, I was a partner at Jenner &
22 Block.

23 **Q. Was Mr. Saltiel a partner as well?**

24 A. No.

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1 **Q. Do you know what his title was as of August of**
2 **2003?**

3 A. He was an associate, to the best of my
4 knowledge.

5 **Q. Did anyone else other than you and Mr. Saltiel**
6 **work on Mr. Fletcher's case?**

7 A. Yes.

8 **Q. Who else worked on the case with you?**

9 A. What I remember sitting here today is that
10 Traci Braun was an attorney who worked on the case with
11 Joe and I. There were other people who may have worked
12 on the case, other attorneys, paralegals, maybe a
13 project assistant, but I don't have any of their names
14 or particulars in my head right now.

15 **Q. And Traci Braun was an attorney that worked on**
16 **the case; is that right?**

17 A. Yes.

18 **Q. What was Traci Braun's title, if you know, in**
19 **August of 2003?**

20 A. I believe she was an associate with the firm.

21 **Q. When you were working on Mr. Fletcher's case,**
22 **was there a designation of who was lead counsel between**
23 **you and the other attorneys that worked on**
24 **Mr. Fletcher's case?**

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1 A. I don't remember any official designation, but
2 I was a partner at the firm. They were associates at
3 the firm, at least Traci and Joe.

4 **Q. Was there ever a determination that you were**
5 **going to be lead counsel because you were the partner?**

6 MR. STARR: Asked and answered.

7 BY THE WITNESS:

8 A. Would you repeat the question, please?

9 **Q. Sure. Was there ever --**

10 A. Or --

11 **Q. I'm sorry. What?**

12 A. No, go ahead. You can repeat it or the court
13 reporter can read it. I just want to know what the
14 question was.

15 **Q. Sure. I can repeat it for you. Did you ever**
16 **make a determination whether or not you were going to be**
17 **lead counsel in Mr. Fletcher's case?**

18 MR. STARR: Objection, asked and answered.

19 MS. SCHUMACHER: I instruct Mr. Hill to answer only
20 to the extent he can do so without revealing any
21 privilege or work product.

22 BY MS. WEST:

23 **Q. Mr. Hill, can you answer the question without**
24 **revealing any work product?**

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1 A. I don't believe I can answer that question
2 both because of the attorney/client privilege and work
3 product issues as well as my -- just my recollection.

4 **Q. Fair enough. At the time that you began**
5 **working on Mr. Fletcher's case, had you previously done**
6 **criminal defense work?**

7 A. Yes.

8 **Q. And was that in a pro bono capacity as well?**

9 A. Most likely, yes.

10 **Q. Prior to handling Mr. Fletcher's case, had you**
11 **previously defended any individuals that were facing**
12 **murder charges?**

13 A. No.

14 **Q. And just to be clear, I know we've talked**
15 **about this. Mr. Fletcher -- Strike that.**

16 **Jenner & Block took on Mr. Fletcher's case on**
17 **a pro bono capacity; is that right?**

18 MR. STARR: I think that's privileged as well, so
19 I'm going to object.

20 BY MS. WEST:

21 **Q. Let me say it this way: Mr. Fletcher gave a**
22 **deposition in this case, and he testified under oath**
23 **that Jenner & Block represented him in a pro bono**
24 **capacity; is that true?**

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1 MR. STARR: Same objection.

2 MS. WEST: I would say it was waived because your
3 client testified to it.

4 MR. STARR: I'm going to make the objection anyway.

5 BY MS. WEST:

6 **Q. Mr. Hill, can you answer the question?**

7 MS. SCHUMACHER: I mean, throughout this deposition
8 we're going to defer to Mr. Fletcher's privilege and
9 Mr. Fletcher's privileged assertions. Mr. Hill is not a
10 party to this litigation. As you know, he is a witness.
11 Mr. Fletcher invokes privilege from Jenner & Block's
12 representation of him, and Mr. Fletcher is going to
13 follow Mr. Fletcher's -- Mr. Hill is going to follow
14 Mr. Fletcher's privileged assertions.

15 BY MS. WEST:

16 **Q. Okay. And, Mr. Hill, just for the record,**
17 **you're following the advice of both your counsel and**
18 **counsel for Mr. Fletcher, correct?**

19 A. Yes, I believe I have an ethical obligation to
20 follow the instructions of certainly Mr. Fletcher's
21 counsel. And I might be foolish to go against my own
22 counsel per se, but I definitely think I have an
23 obligation not to answer that question in view of the
24 objections that have been made.

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1 **Q. Thank you.**

2 MS. WEST: And for the record, also I should have
3 put this on earlier. Sean, we'll litigate this after
4 the fact, but I am going to reserve the right to
5 redepose Mr. Hill based on all the questions that
6 privilege was asserted over after we take it up with the
7 Court. We talked about that, but just for the record.
8 BY MS. WEST:

9 **Q. All right. Mr. Hill, do you recall what stage**
10 **in the criminal -- what stage the criminal case was in**
11 **when you received it or when you began working on it?**

12 A. I don't recall.

13 **Q. Do you recall if Mr. Fletcher had a public**
14 **defender at the time that you started working on the**
15 **case?**

16 A. I don't recall.

17 **Q. Do you recall if you began working on**
18 **Mr. Fletcher's case immediately following his arrest?**

19 A. I don't know.

20 **Q. The name, Joseph Kennelly, who was a public**
21 **defender, does that -- do you know who that individual**
22 **is?**

23 A. No.

24 **Q. Do you recall an individual, a public**

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1 **defender, by the name of Joseph Kennelly working on**
2 **Mr. Fletcher's case prior to you working on it?**

3 A. I don't have any recollection of that.

4 Q. When you received the -- When you began
5 working on Mr. Fletcher's case, do you recall if any
6 motion practice had taken place?

7 A. I don't recall.

8 Q. I'm going to show you what we'll mark as
9 **Exhibit 4.**

10 (A document was viewed.)

11 MS. WEST: For the record, it is a motion to
12 suppress from January 11th, 2003, and the Bates stamp is
13 Fletcher 1157 through 58.

14 BY MS. WEST:

15 Q. Mr. Hill, do you have what we've marked as
16 **Exhibit 4, Bates-stamped Fletcher 1157 through 58 in**
17 **front of you?**

18 A. I do.

19 Q. And I've also got it up on the screen. What
20 **is this document?**

21 A. I'm not sure that I -- I'm not sure I've seen
22 this document before. But in reading it, it has a
23 heading of motion to suppress identification testimony.

24 Q. Okay. And I think you already answered my

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1 **next question. You don't have a memory of seeing this**
2 **document when you took over the case?**

3 A. I don't recall one way or the other. I may
4 have seen it. I may not have seen it.

5 **Q. If you could take a look at -- I'm just going**
6 **to scroll down in case anyone is looking at it on the**
7 **screen, but I know you have the document in front of**
8 **you. Actually let's start here at the beginning, the**
9 **motion to suppress identification testimony. Mr. Hill,**
10 **can you tell from this document whether or not this**
11 **document was filed on behalf of Mr. James Fletcher in**
12 **his criminal case?**

13 A. I mean, from reading the document, it says,
14 "Now comes the defendant, James Fletcher, by his
15 attorney, Rita A. Fry, public defender of Cook County,
16 through Joseph P. Kennelly, assistant public defender,
17 and moves this Honorable Court to enter an order
18 suppressing certain identification testimony of
19 witnesses that the State has indicated will be called to
20 testify against him." And then it's signed apparently
21 by Joseph P. Kennelly on Fletcher 1158. So it looks
22 like it was a document filed by Mr. Fletcher's attorney
23 seeking to suppress testimony.

24 **Q. And the date at the top of the document**

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1 **appears to be January 10th, 2003. Do you see that?**

2 A. I see there is -- what, to my knowledge, is a
3 file stamp of January 10th, 2003. There is also some
4 typing at the top of the document that gives a
5 Document No. 28-24 that was filed April 4th of 2012.

6 **Q. If you could take a look at Point B, which is**
7 **on the first page, the bottom of the first page, take a**
8 **second to read that paragraph and let me know when**
9 **you're finished.**

10 A. I read it.

11 **Q. Thank you. So in this motion at Point B, does**
12 **it appear to you that the public defender is raising --**
13 **one of the concerns the public defender is raising is**
14 **that the lineup wasn't properly suggestive due to the**
15 **lineup?**

16 A. I mean, the argument stands for itself. It's
17 there in the paper.

18 **Q. Do you have a memory of making this same**
19 **argument that the public defender made in Point B in a**
20 **subsequent filing?**

21 A. I don't recall the specifics of any arguments
22 that were made, but I do know that there were some
23 motions to suppress that were filed in the case while I
24 was an attorney in the case.

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1 A. E as in elephant. Okay. And that's 3E,
2 right?

3 **Q. Correct, in the middle of the second page.**

4 A. What was the question? The question was do I
5 see 3E?

6 **Q. Just if you can take a second to read it and**
7 **then I'll ask you a question.**

8 A. Okay. I've read it.

9 **Q. Do you know who attorney Ms. J. Cunyon Gordon**
10 **is?**

11 A. Yes.

12 **Q. How do you know her?**

13 A. I met her at Jenner & Block.

14 **Q. Do you have a recollection of Ms. Gordon being**
15 **a part of Mr. Fletcher's criminal case in some capacity?**

16 MS. SCHUMACHER: Is Mr. Fletcher claiming any
17 privilege over this question?

18 MR. STARR: I mean, I think that we know that she
19 represented him at the time of the lineup, so I don't --
20 I mean, anything that would reveal work product or
21 privileged conversation, yes, but I don't interpret the
22 question to be asking that.

23 MS. SCHUMACHER: Okay. So then Mr. Hill can
24 respond to the extent it doesn't reveal any work product

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1 or privileged conversations.

2 BY THE WITNESS:

3 Q. Would you give me the question again so I have
4 it right? I'm sorry.

5 MS. WEST: Amie, would you mind reading it back,
6 please?

7 (Record read as requested.)

8 BY THE WITNESS:

9 A. Yes.

10 Q. Did Ms. Gordon represent Mr. Fletcher at the
11 time of the lineup?

12 A. I don't know.

13 Q. Did you call Ms. Gordon as a witness at
14 Mr. Fletcher's criminal trial?

15 A. I don't recall.

16 Q. When you met Ms. Gordon at Jenner & Block, was
17 the meeting in relation to Mr. Fletcher's case?

18 A. No.

19 Q. So do you know Ms. Gordon separate and apart
20 from Mr. Fletcher's case?

21 A. Yes.

22 Q. Do you know that Ms. Gordon is related to
23 James Fletcher?

24 A. I understand that to be the case. I don't

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1 know it to be the case.

2 **Q. Did you learn from Ms. Gordon that she was**
3 **related to Mr. Fletcher?**

4 MR. STARR: I would instruct the witness not to
5 answer if this reveals any privileged conversations that
6 he had with fellow counsel or Mr. Fletcher. If he can
7 answer without revealing that, then it's fair.

8 BY THE WITNESS:

9 A. I don't recall.

10 **Q. Do you have a recollection of making an**
11 **argument whether in court filing or in open court that**
12 **Mr. Fletcher was denied access to his counsel,**
13 **Ms. Gordon, at the time of the lineup?**

14 A. I don't recall the specifics of any such
15 argument, but I believe there was a motion that was
16 heard in the criminal courts relating to the lineup.
17 The specifics of that, I don't recall at this time.

18 **Q. Do you recall anything other than just**
19 **generally that there was a court filing about the**
20 **lineup?**

21 A. I remember there was a hearing with respect to
22 it as well as what I recall, but that was almost
23 20 years ago.

24 **Q. Fair enough. Do you have any independent**

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1 **recollection about the arguments that were made during**
2 **the court hearing relative to the lineup?**

3 A. Not specifically. I mean, whatever was said
4 in the court would be the best record of the arguments
5 that were made there. I wouldn't want to speculate
6 20 years later as to what I said in court or somebody
7 else on the team with respect to that.

8 **Q. I'm going to show what we'll mark as**
9 **Exhibit 5.**

10 MS. WEST: And for the record and counsel, it's
11 motion to suppress from November 10th, 2003, and it's
12 Bates-stamped Fletcher 504 through 510.

13 (A document was viewed.)

14 BY MS. WEST:

15 **Q. Mr. Hill, have you had the opportunity to pull**
16 **up the document in front of -- have a paper copy of the**
17 **document in front of you that I just identified for the**
18 **record as Exhibit 5?**

19 A. Yes.

20 **Q. Are you familiar with this document?**

21 A. No, I'm not familiar with this document.

22 **Q. Do you have a recollection of this document**
23 **being filed on behalf of Mr. Fletcher after you took**
24 **over -- or after you began working on Mr. Fletcher's**

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1 **case?**

2 A. I don't have any recollection of this specific
3 document. I do recall that there was a motion to
4 suppress evidence that was before the court during the
5 time that I represented Mr. Fletcher.

6 **Q. Okay. And on the second to last page, which**
7 **is Fletcher 509, there is a signature block on the**
8 **left-hand side of the page, and the signature block**
9 **includes your name, correct?**

10 A. Yes, my name is on the left side of the page
11 in the listing of attorneys. Separately, there is a
12 signature line that does not include -- a signature that
13 is not my signature.

14 **Q. And is that the signature, is that of Joseph**
15 **Saltiel?**

16 A. That's what it looks like it reads to me.

17 **Q. And the date of this document is November 10th**
18 **of 2003. Do you see that?**

19 A. I see that in the document.

20 **Q. So based on this document, we at least know**
21 **that you were working on Mr. Fletcher's case as of**
22 **November of 2003, correct?**

23 A. I believe that's accurate.

24 **Q. And this was, in fact, a motion to suppress**

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1 **that was filed on behalf of Mr. Fletcher by Jenner &**
2 **Block, correct?**

3 A. It appears to be. I don't have any
4 independent recollection of the document.

5 Q. If you could take a look at Point 3, and it's
6 on Bates stamp 507 or page 4 of the document, with the
7 title, at the time -- starting, at the time, and it has
8 17 and 18. Do you see that?

9 A. I see it.

10 Q. Okay. In this court filing, does it appear
11 that an argument was asserted that Mr. Fletcher was
12 denied his access to his counsel at the time of the
13 lineup?

14 A. Well, it says at the time of the lineup on
15 April 20th, 2002, Mr. Fletcher had a 6th Amendment right
16 to counsel. Prior to the lineup, the State, through
17 Ms. Walker, had (1) independent of the police
18 investigation conducted its own investigation into the
19 death of Mr. Sorrell, which included personally
20 interviewing key witnesses. And then it goes on to
21 discuss some other factors with respect to it.

22 Q. Do you have a memory of making an argument in
23 court with respect to this motion that Mr. Fletcher was
24 denied access to his counsel, Ms. Gordon, at the time of

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1 **the investigation?**

2 A. I don't necessarily have a recollection of
3 what you specified in your question. I generally
4 remember, as I indicated, that there was a motion
5 related to the lineup and some motions to suppress, all
6 of which I don't remember the specifics of as I sit here
7 today.

8 **Q. Do you have a memory of whether the motion to**
9 **suppress that you're speaking of actually went to a**
10 **hearing?**

11 A. I remember there were some hearings with
12 respect to certain motions that we made. I don't know
13 sitting here today which issues were involved in those
14 particular hearings or how many motions there were or
15 how many motion hearings there were with respect to any
16 motions that were raised. But I do know there were
17 motions made regarding many issues in the case but
18 including the lineup and other issues.

19 **Q. Do you have a recollection of the motion to**
20 **suppress identification of witnesses being withdrawn?**

21 A. I don't have a particular recollection of
22 withdrawing a particular motion. Like I said, I
23 remember there were multiple motions. But the specifics
24 and particulars of those, I don't have a specific

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1 recollection about them now.

2 **Q. What are the multiple motions that you have a**
3 **recollection of?**

4 A. Well, there was a motion for a new trial.
5 There was a motion to suppress. You know, I'm sure
6 there were other motions as well, but I don't -- I don't
7 have a recollection of all of them.

8 **Q. Do you have a recollection of there being more**
9 **than one motion to suppress filed in the case?**

10 A. I don't know. I remember there was some
11 motions to exclude certain testimony. I remember there
12 was some motions to suppress. But I don't have clear in
13 my head what the issues were with respect to any of
14 those as I sit here today.

15 **Q. Okay. I'm going to show you another document.**
16 **Let's mark this as -- I'm going to add a number for the**
17 **court reporter and myself. We'll make this Exhibit 21.**
18 **And you do have it. It just wasn't marked as a number.**
19 **It's going to be the criminal court docket. Bear with**
20 **me. I'm just pulling it up here.**

21 MR. STARR: Allyson, was this produced in this
22 case?

23 MS. WEST: It was.

24 (A document was viewed.)

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1 MR. STARR: It doesn't have a Bates.

2 MS. WEST: You're right. It doesn't have a Bates.
3 I do know that it was produced. I probably pulled the
4 wrong one, though.

5 MR. STARR: I think you're correct. I think I
6 remember seeing it. I just wanted to note this doesn't
7 have any Bates on it.

8 MS. WEST: Thank you.

9 BY MS. WEST:

10 Q. Mr. Hill, do you have what is the document
11 that starts at the top, criminal division case summary,
12 Case No. 02CR1666901?

13 A. I do.

14 Q. Okay. If I can have you take a look at
15 page 19 of this document, specifically it's dated on the
16 left-hand side, and the date that I want to direct your
17 attention to is March 5th, 2004. And there is multiple
18 entries related to that date, but the one that I want
19 you to focus on is where it says special order. Do you
20 see that?

21 A. Yes.

22 Q. Do you see under special order, it says
23 Room 304, what I think is an abbreviation for judge,
24 1766, and then I think that means makes description,

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1 **DESC, colon, motion to suppress statements withdrawn.**

2 **Do you see that?**

3 A. I see that.

4 **Q. Based on this document, does this help refresh**
5 **your memory as to whether or not the motion to suppress**
6 **was withdrawn?**

7 MR. STARR: Objection, foundation.

8 BY THE WITNESS:

9 A. No.

10 **Q. You can set that document aside, sir. After**
11 **you began -- Strike that.**

12 **Did you complete a workup once you were**
13 **assigned to handle Mr. Fletcher's case?**

14 MR. STARR: I'm going to object under work product
15 privilege. Did I understand the question correctly?

16 MS. WEST: Yeah, I'm not asking what he did.

17 BY MS. WEST:

18 **Q. I'm asking if you began working on**
19 **Mr. Fletcher's case after you were assigned to it?**

20 MR. STARR: Okay. I'll withdraw that objection.

21 BY THE WITNESS:

22 A. If I understand the question, did I work on
23 Mr. Fletcher's case after I was assigned to it? I did
24 work on Mr. Fletcher's case at some point.

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1 **Q. I'm sorry. I didn't mean to cut you off. Go**
2 **ahead.**

3 A. I'm done.

4 **Q. Did you request records?**

5 MR. STARR: Again if I understand the question, are
6 you asking a question did he formally subpoena records?
7 Are you asking -- I'm not sure what you mean. If you're
8 asking for work product, I'm going to object. I'm
9 sorry, Allyson. I'm just not sure what you're asking.
10 BY MS. WEST:

11 **Q. Let's ground it in this: There was a**
12 **production, and among the production and the criminal**
13 **court file there are subpoenas that were issued by your**
14 **office for documents. Do you have a recollection of**
15 **issuing subpoenas to the Chicago Police Department for**
16 **records relative to the underlying criminal**
17 **investigation into Mr. Fletcher's case?**

18 A. If you're asking me do I have a recollection
19 of requesting some records?

20 **Q. Correct.**

21 A. Who was it from?

22 **Q. The Chicago Police Department.**

23 A. Chicago Police Department. I don't have any
24 such recollection.

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1 **Q. And you previously testified that you worked**
2 **on criminal cases prior to Mr. Fletcher's, correct?**

3 A. Yes.

4 **Q. And was it your general practice when you**
5 **began working on a criminal case to subpoena records**
6 **relative to the underlying criminal investigation?**

7 A. So I don't have a specific recollection with
8 regard to Mr. Fletcher's case. But in general, there is
9 some discovery that goes in these cases, and there is
10 requests that are made and that may be complied with or
11 not. I don't have any specific recollection of what was
12 exchanged in this particular case with regard to records
13 from the police department or anywhere else at this
14 point.

15 **Q. So generally when you handle a criminal**
16 **defense case, was it your custom and practice to issue**
17 **subpoenas for documents relative to the underlying**
18 **criminal investigation?**

19 A. I don't know that -- that -- I can tell you
20 that I had a general practice regarding such things. I
21 mean, what -- we try to obtain the documents and
22 information that is relevant to the particular case
23 that's at hand. I don't know that -- I don't know of a
24 general practice per se that sits with what you've asked

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1 as a question.

2 **Q. So when you are defending a criminal case, is**
3 **it important to you to know what happened in the**
4 **criminal investigation?**

5 A. If you're handling a criminal case or some
6 investigation, I think it's important to try and
7 ascertain what the facts are, what the facts are not.

8 **Q. And is one way of ascertaining or determining**
9 **those facts ordering or issuing a subpoena for all**
10 **documents that are relevant to the criminal**
11 **investigation?**

12 A. I don't know. It would depend on the
13 particular circumstances.

14 **Q. In Mr. Fletcher's case, did you file a motion**
15 **for discovery?**

16 A. I don't have a recollection of filing one, but
17 I would presume that we filed a motion for discovery.
18 It would be typical in these sorts of criminal cases.

19 **Q. And in that motion for discovery -- Strike**
20 **that.**

21 **Have you seen a motion for discovery filed in**
22 **a criminal case before?**

23 A. Have I ever seen a motion for discovery filed
24 in a criminal case?

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1 **Q. Yes.**

2 A. Yes, I have.

3 **Q. Okay. And typically within that motion for**
4 **discovery, you're asking for the State to turn over any**
5 **documentation that they have relative to the underlying**
6 **investigation, correct?**

7 A. Would you repeat the question?

8 **Q. Sure. Essentially isn't a motion for**
9 **discovery, you're telling the other side, hey, give me**
10 **everything that you've got that you're going to use to**
11 **support your case, documents, evidence, give me all of**
12 **that?**

13 A. I think that's maybe a fair characterization.
14 I mean, it's a generalization, but it's probably a fair
15 characterization. You're trying to get some
16 information.

17 **Q. And among that information requested,**
18 **typically in a motion for discovery, you also ask for**
19 **any exculpatory information or evidence, correct?**

20 A. I'm not sure what's typical, but I do believe
21 that the State has an obligation to give exculpatory
22 evidence to criminal defendants.

23 **Q. In Mr. Fletcher's case, you received**
24 **documentation or evidence from the State in response to**

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1 **the motion for discovery; is that right?**

2 A. I don't have a specific recollection of what
3 we got in Mr. Fletcher's case from the State.

4 **Q. Do you recall receiving any information or**
5 **documentation from the State in response to a motion for**
6 **discovery?**

7 A. Sitting here today, I don't have a
8 recollection. I know we tried a case, and we had some
9 exhibits. I assume that some came from the State. You
10 probably could ascertain that from the record better
11 than I can, but I don't have any specific recollection.

12 **Q. When you are defending a criminal case, you**
13 **can issue this motion for discovery like we just talked**
14 **about, right?**

15 A. Motions for discovery are permitted in
16 criminal cases as far as I know.

17 **Q. And you can also, independent of that motion**
18 **for discovery, issue subpoenas for documents to an**
19 **outside agency such as the Chicago Police Department,**
20 **correct?**

21 A. As far as I know, that's correct.

22 **Q. When it came time for Mr. Fletcher's trial, do**
23 **you have a recollection of the State presenting**
24 **documents for evidence at trial that you had not seen**

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1 **before the trial began?**

2 A. I don't recall sitting here today one way or
3 the other.

4 **Q. If they had presented -- If the State had**
5 **presented evidence that you had not previously seen,**
6 **would that have been something that you would remember?**

7 MR. STARR: Objection, form, foundation.

8 BY THE WITNESS:

9 A. I can't say one way or the other. As I
10 indicated in my earlier answer, I don't have any
11 specific recollection of that type of thing happening in
12 this particular case with Mr. Fletcher.

13 **Q. If in a criminal case, the State had presented**
14 **evidence at the time of trial that you hadn't seen**
15 **before, that would be grounds for discovery violation,**
16 **correct?**

17 A. Can you read the question back to me, please?

18 (Record read as requested.)

19 BY THE WITNESS:

20 A. I don't know. It would depend on the
21 circumstances, I imagine.

22 **Q. And if the State had presented brand new**
23 **information that you, as defense counsel, had not been**
24 **privy to before, that could be potential grounds for a**

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1 **mistrial, correct?**

2 A. I think it would depend on the circumstances.

3 **Q. What would it depend upon?**

4 A. The circumstances, the facts that were
5 attended to the hypothetical you've given.

6 **Q. Did you hire private investigators to work on**
7 **Mr. Fletcher's case?**

8 A. I don't recall one way or the other.

9 **Q. Do you recall an individual by the name of Jim**
10 **Zarnick?**

11 A. I don't have a specific recollection of that
12 name.

13 **Q. Earlier you testified that there were a number**
14 **of attorneys and paralegals and individuals that worked**
15 **on the case. Do you have a recollection of any**
16 **investigator going out, locating, speaking with**
17 **witnesses as a part of the case?**

18 A. I don't have a specific recollection of that.
19 It may have occurred. It may not have occurred. I
20 don't really have a specific recollection.

21 **Q. Do you recall who the eyewitnesses were in**
22 **Mr. Fletcher's case?**

23 A. From what I recall, I believe it was -- and I
24 may get the names wrong, but Mr. Cooper, I believe there

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1 was Wade, and Sheenee Friend.

2 MS. WEST: Let me ask you this before we dive into
3 this: Would you like to take a break?

4 THE WITNESS: Sure.

5 MS. WEST: How much time would you like?

6 THE WITNESS: Five minutes would be good.

7 MS. WEST: Sounds good.

8 (A short recess was had.)

9 BY MS. WEST:

10 Q. Before we took a break, you indicated that you
11 had a recollection of an individual by the name of Wade
12 being an eyewitness in the case; is that right?

13 A. Yes.

14 Q. Do you recall Mr. Wade's role in the case?

15 MR. STARR: Objection to form.

16 BY THE WITNESS:

17 A. Well, what I recall about Mr. Wade is that I
18 believe he was at the scene of the underlying crime that
19 led to the death that was the basis of the accusation of
20 murder against Mr. Fletcher.

21 Q. Did Mr. Wade testify at trial?

22 A. I believe he did, yes.

23 Q. Was he a witness that was called by the State?

24 A. I don't recall.

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1 **Q. Was he a witness that you called?**

2 MR. STARR: Objection, asked and answered.

3 BY THE WITNESS:

4 A. I don't recall.

5 **Q. Do you recall the substance of Mr. Wade's**
6 **testimony?**

7 A. I don't necessarily remember the substance of
8 his testimony in court.

9 **Q. Did you speak with Mr. Wade prior to the**
10 **criminal trial taking place?**

11 A. I believe I did, yes.

12 **Q. Do you recall when specifically you spoke with**
13 **him prior to trial?**

14 A. I don't remember any more specifically than it
15 was before trial.

16 **Q. Did you speak with him in person?**

17 A. I believe that I did.

18 **Q. What was the location in which -- Where were**
19 **you when you spoke with him?**

20 A. That I don't remember.

21 **Q. Was anyone else present other than yourself**
22 **and Mr. Wade?**

23 A. I don't remember.

24 **Q. During this -- Strike that.**

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1 **Did you meet with Mr. Wade more than one time**
2 **prior to trial?**

3 A. I don't really recall, but I may have met with
4 him more than one time. I'm pretty sure that I met with
5 him more than one time, but I don't know how many times.

6 **Q. During your meeting or meetings with Mr. Wade,**
7 **what did Mr. Wade tell you?**

8 MR. STARR: I would object to the extent that any
9 testimony that you might give, if it should invoke the
10 attorney/client privilege, I would suggest that you
11 refrain from testifying. If you can answer without it
12 invading the attorney/client privilege, then he can
13 testify.

14 MS. SCHUMACHER: I agree.

15 MS. WEST: Go ahead.

16 MS. SCHUMACHER: I would instruct Mr. Hill that he
17 can testify to the extent it's not revealing any work
18 product or any attorney/client privilege.

19 THE WITNESS: Would you mind reading back the
20 question, please.

21 (Record read as requested.)

22 BY THE WITNESS:

23 A. It's been some time, and I don't remember all
24 the specifics but there were a few important things that

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1 I thought Mr. Wade said that I do recall. And, you
2 know, Wade indicated that the police had brought some
3 identification photos to him and that they had, in fact,
4 told him which one of the perpetrators to pick as being
5 the person who committed the underlying crime that led
6 to Jimmy's conviction.

7 **Q. And you said you thought there were a couple**
8 **important points that you learned from Mr. Wade. Was**
9 **there anything else than this information about the**
10 **police telling him who to pick that you learned from**
11 **Mr. Wade during this conversation?**

12 MR. STARR: Same objection, same instruction.

13 BY THE WITNESS:

14 A. You know, that was -- that was the main issue,
15 quite frankly. I mean, he may have talked about some
16 other details with respect to how they approached him
17 and so on and so forth. But the crux of what he said to
18 me was that the police told him to pick Jimmy's picture.

19 **Q. And did Mr. Wade tell you that he informed the**
20 **police that he could not identify an offender?**

21 A. I believe he did. And now that you mention
22 it, I believe he did indicate to the police that he
23 couldn't ascertain out of the photos who had perpetrated
24 the crime.

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1 **Q. And when Mr. Wade testified at trial, did he**
2 **testify consistent to that, that he also told the police**
3 **that he couldn't positively identify an offender?**

4 MR. STARR: Objection to form.

5 BY THE WITNESS:

6 A. You can go and read the record for Mr. Wade's
7 testimony. I haven't looked back at it. But he was
8 prevented from answering some number of questions at the
9 objection of the State.

10 **Q. Do you have a recollection of Mr. Wade**
11 **testifying that he could not positively identify an**
12 **offender?**

13 A. I don't know the specifics of what Mr. Wade
14 said, but Mr. Wade was pretty consistent throughout the
15 times that I talked to him. And I do think he said he
16 could not identify the perpetrator and also that the
17 police, in fact, told him to pick Fletcher.

18 **Q. Do you have an independent recollection of**
19 **whether or not that piece of information that the police**
20 **told him who to pick came out at the trial during his**
21 **testimony?**

22 A. My recollection is that it did not, that he
23 was prepared to make that statement, and the State
24 objected and the judge sustained that objection.

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1 **Q. Do you know if Mr. Wade had any conversations**
2 **with Mr. Saltiel independent of you?**

3 A. I don't recall.

4 **Q. I'm going to show you what we'll mark as Group**
5 **Exhibit 7. Yeah, let's go out of number. 7, please.**

6 MS. WEST: And for the record, it's two letters.
7 It's a July 4th, 2008 letter that's Bates-stamped
8 Fletcher 8379 and a July 11th, 2008 letter, which is
9 Bates-stamped Fletcher 8381.

10 (A document was viewed.)

11 MR. STARR: I'm going to object to the use of these
12 exhibits and indicate that these are exhibits that were
13 clawed back this morning. These constitute
14 attorney/client communication. We, like I said,
15 indicated that we are clawing these back, and we object
16 to their use at this deposition.

17 MS. WEST: And just in response to Mr. Starr's
18 comments, our position was already stated on the record
19 today.

20 BY MS. WEST:

21 **Q. And, Mr. Hill, I do apologize because I am**
22 **going to go ahead and make a record with you. And**
23 **counsel may be asserting an objection every time, but**
24 **I'm going to go ahead and ask the questions to you with**

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1 the understanding that counsel is likely going to
2 object.

3 With regard to the July 4th letter that's
4 Bates-stamped 8379, if you could take a minute to just
5 review this short letter and let me know when you're
6 finished, please.

7 A. I read the letter.

8 Q. Thank you. The date on this letter is from
9 2008, so that would be post trial, correct?

10 MR. STARR: Again I'm going to object to the use of
11 this letter. I'm not instructing the witness not to
12 answer that question, but I'm again objecting to the use
13 of any form of this letter since we have clawed it back.
14 BY THE WITNESS:

15 A. I do believe the trial was over by July 4th of
16 2008.

17 Q. And based on this letter, it's the third
18 sentence, it appears that Mr. Fletcher is asking you to
19 provide an affidavit if you were to send an investigator
20 to see Wade and he were to change his story. Do you see
21 that?

22 MR. STARR: I'm going to object, form, foundation,
23 mischaracterizes the evidence, and also that this is
24 attorney/client communications and therefore privileged,

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1 and I'm going to instruct the witness not to answer any
2 questions.

3 BY THE WITNESS:

4 A. I'm going to follow the instruction of
5 Mr. Fletcher's lawyer and not answer the question based
6 on privilege.

7 **Q. Do you have a recollection of Mr. Fletcher**
8 **asking you to provide an affidavit post trial based on**
9 **your conversations with Mr. Wade?**

10 MR. STARR: Objection to form, mischaracterizes
11 facts in evidence, and again I'm going to object on
12 privilege grounds and instruct the witness not to
13 answer.

14 BY MS. WEST:

15 **Q. Mr. Hill, are you taking the advice of**
16 **Mr. Fletcher's attorney?**

17 A. I believe so.

18 THE WITNESS: Could you just read the question
19 back, please?

20 (Record read as requested.)

21 BY THE WITNESS:

22 A. I'm going to follow Mr. Fletcher's attorney's
23 advice and not give an answer to the question.

24 **Q. Did you ever provide Mr. Fletcher with an**

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1 **affidavit that relates to your conversation with**
2 **Mr. Wade?**

3 MR. STARR: Same objection, same instruction.

4 BY MS. WEST:

5 **Q. And I apologize, Mr. Hill; this is going to**
6 **get redundant.**

7 A. It's okay. I mean, I'll follow counsel's
8 instruction not to answer the question.

9 **Q. Thank you. Let's take a look at this second**
10 **correspondence, which is dated July 11th, 2008,**
11 **Bates-stamped Fletcher 8381. And, Mr. Hill, does this**
12 **appear to be a letter to Mr. Fletcher from Joseph**
13 **Saltiel?**

14 MR. STARR: Same objection, same instruction.
15 Actually, let me withdraw that because my previous
16 objection had to do with mischaracterization of facts in
17 evidence. I'm just going to object on privilege
18 grounds. This is attorney/client communication. I'm
19 going to object to the use of the exhibit and instruct
20 the witness not to answer any questions about it.

21 BY MS. WEST:

22 **Q. And, Mr. Hill, are you taking the advice of**
23 **Mr. Starr?**

24 A. Yes, I'm not going to answer any substantive

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1 questions about the exhibit.

2 **Q. Do you have a recollection of speaking with**
3 **Mr. Saltiel about Mr. Fletcher requesting an affidavit?**

4 MR. STARR: Same objection, same instruction.

5 BY MS. WEST:

6 **Q. Are you following the advice of Mr. Starr?**

7 A. I'm going to follow the advice of counsel.

8 **Q. Do you know what it is specifically**
9 **Mr. Fletcher was looking for in an affidavit relative to**
10 **your communications with Mr. Wade?**

11 MR. STARR: Same objection, same instruction.

12 BY THE WITNESS:

13 A. I'll follow the instruction of Mr. Fletcher's
14 counsel.

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24 MR. STARR: I'm going to object and state for the

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1 record that plaintiff's counsel believes this is
2 improper. This is an attorney/client communication that
3 we have clawed back. Obviously the dispute has not come
4 before the Court, but I do think it's improper to read
5 this into the record.

6 BY THE WITNESS:

7 A. I believe that counsel has also instructed me
8 not to answer so I will respect that.

9 MR. STARR: Thank you.

10 BY MS. WEST:

11 **Q. Mr. Hill, did you ever receive a copy of any**
12 **statement that Mr. Wade had made after the 2005 criminal**
13 **trial?**

14 A. I don't know. I don't recall. I know there
15 were subsequent procedures [sic] and hearings that dealt
16 with what Mr. Wade said, but I don't remember outside of
17 that, those venues, that I received anything one way or
18 the other.

19 **Q. What subsequent proceedings were you involved**
20 **in post trial that involved Mr. Wade?**

21 A. I wasn't involved -- As I sit here today, I
22 haven't been involved in any proceedings, I believe,
23 since Mr. Fletcher was sentenced.

24 **Q. So is it fair to say that your representation**

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1 **of Mr. Fletcher ended after sentencing?**

2 A. Well, what I can say is I believe that our
3 representation of Jimmy in the case that led to his
4 conviction of murder, and I don't remember what the
5 victim's name was, but of the 2005 trial, I believe that
6 our direct representation of him in that case ended, you
7 know, maybe it was sentencing, sometime around that
8 time, he hired new counsel that represented him. We
9 didn't represent him in the case going forward. But
10 Mr. Fletcher may have reached out to me for advice or
11 had communications with me over some period of time
12 after he -- after that sentencing. And that might be
13 privileged communications. Those would be privileged
14 communications in my view as well.

15 MR. STARR: I would say for the record that defense
16 counsel and plaintiff's counsel conferred on a number of
17 occasions regarding communications after sentencing and
18 we asserted privilege over those communications.

19 MS. WEST: Understood.

20 BY MS. WEST:

21 **Q. I apologize, Mr. Hill, I may have already**
22 **asked you this: Do you have a memory of having any**
23 **direct communication with Mr. Wade after the trial?**

24 A. Not that I recall. It's possible, but I don't

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1 recall it one way or the other.

2 **Q. You also indicated that you recalled a**
3 **witness, Ms. Friend; is that right?**

4 A. Yes.

5 **Q. Do you recall in what capacity? How is**
6 **Ms. Friend an eyewitness to the underlying homicide, if**
7 **you recall?**

8 A. You know, I don't have a clear recollection of
9 this. I mean, she was at the scene or professed to be
10 at the scene. I think she was -- I don't remember
11 exactly. She was somehow associated maybe with
12 Mr. Cooper, and maybe they were together at the scene.
13 That's what I recall about it now.

14 **Q. Do you recall if Ms. Friend identified**
15 **Mr. Fletcher as an offender?**

16 MR. STARR: At any point or at any juncture?

17 MS. WEST: At any point.

18 BY THE WITNESS:

19 A. Ms. Friend certainly identified Mr. Fletcher
20 at trial, at his trial as being an offender in the
21 underlying robbery that led to the murder or death.

22 **Q. Did you speak with Ms. Friend in preparation**
23 **for trial?**

24 MR. STARR: I'm going to object to the extent that

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1 it invades any attorney work product or attorney/client
2 privilege. If Mr. Hill can answer without invading
3 those privileges, he can do so.

4 BY THE WITNESS:

5 A. What was the question again?

6 **Q. Sure. Did you speak --**

7 A. I apologize.

8 **Q. No, no worries. There's a lot of objections**
9 **so I get it.**

10 **Do you have -- Did you speak with Ms. Friend**
11 **in preparation for trial?**

12 MR. STARR: Same objection.

13 BY THE WITNESS:

14 A. I don't know that I can answer that question
15 without revealing privileged work product or privileged
16 communications.

17 **Q. Let me show you what we'll mark as Exhibit 8.**

18 MS. WEST: For the record, it's notes from
19 March 24th, 2004, Bates-stamped Fletcher 8576.

20 MR. STARR: Allyson, if these are notes that were
21 shared with the State's Attorney's Office, then I
22 believe they are not privileged. I don't know --
23 Without further context, I don't know if these are notes
24 that were, in fact, shared with the State's Attorney's

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1 Office. So if they were not, then they constitute
2 attorney work product, and I would object and they would
3 be subject to our clawback.

4 (A document was viewed.)

5 MS. WEST: A couple notes on that. So I'm going to
6 try to establish that with him because there is a
7 subsequent letter with the State's Attorney that I'm
8 going to show him next, so we can get to that. But
9 also, I would note for the record that this document
10 itself looks like it was reviewed by an attorney, and
11 portions of it were redacted. So in my mind, there was
12 a strategic decision to redact portions of the document
13 or perhaps a work product privilege, but the others were
14 left. So I would say that, same thing we've talking
15 about, Sean, that the objection is untimely.

16 MR. STARR: Yeah, understood. Given the relevant
17 limited amount of time they had to review these exhibits
18 this morning, I didn't have the ability to determine
19 whether or not this is a note that was tendered to the
20 State's Attorney's Office. I know there is some
21 documents that suggest that they note was tendered. I
22 don't know if this is that or not. So my objection
23 is -- My objection stands. I don't know that that title
24 redacted on there -- First of all, I don't see anything

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1 that's redacted. Second of all, I don't believe our
2 office made that redaction. And so my point is is that
3 this was inadvertently produced. It is subject to our
4 clawback.

5 BY MS. WEST:

6 **Q. Mr. Hill, do you have the notes up in front of**
7 **you?**

8 A. I do.

9 **Q. Okay. Is this your handwriting, sir?**

10 A. No.

11 **Q. Do you know whose handwriting it is?**

12 A. No.

13 **Q. Did Mr. Saltiel ever indicate to you that he**
14 **had spoken with Ms. Friend at some point in time?**

15 MR. STARR: Objection, attorney work product. I'm
16 going to instruct him not to answer.

17 BY THE WITNESS:

18 A. I'll follow counsel's instructions not to
19 answer.

20 MS. WEST: Just for the record, I don't think Sean
21 has the grounds to object to work product. It's not his
22 work product.

23 BY MS. WEST:

24 **Q. With that in mind, Mr. Hill, are you taking**

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1 **the advice of Mr. Fletcher's counsel and not answering?**

2 A. Yes.

3 MR. STARR: I think Mr. Hill's attorney indicated
4 that she also suggests that -- instructs him not to
5 testify about any work product earlier in the
6 deposition. I don't know if that's an instruction that
7 applies to all work product or certain work product, but
8 I interpret it to apply to all work product.

9 MS. SCHUMACHER: That's accurate. We've instructed
10 Mr. Hill not to the testify as to any work product
11 regarding the representation of Mr. Fletcher. And as
12 evidenced by the prior transcript, Mr. Fletcher holds
13 the attorney/client privilege, and Mr. Hill is following
14 Mr. Fletcher's attorney's advice as to the
15 attorney/client communication and privilege. He's also
16 instructed not to reveal attorney work product at this
17 deposition.

18 MS. WEST: If I could ask, just for the record,
19 because we've got a lot of objections flying around
20 here, Ashley, if you could, if possible, identify for me
21 when you are asserting privilege over work product
22 because this is going to be subject to litigation after
23 the fact. That way I know how I can separate the two,
24 the claims that Mr. Starr is making on behalf of his

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1 client and the claims that you are making on behalf of
2 Jenner & Block, if possible, please. Is that okay?

3 MS. SCHUMACHER: Yes. Yes, we can attempt to
4 delineate. I mean, I think much of the questions and
5 the documents I think would be overlapping, right, both
6 attorney/client communications, attorney/client
7 privilege, and attorney work product. So but, you know,
8 we can add in both objections.

9 MS. WEST: Okay. Thank you. And just so we're
10 clear, with regard to this document specifically, Sean,
11 you're not asserting any attorney/client communication
12 privilege, correct?

13 MR. STARR: I haven't reviewed this document other
14 than having it up on the screen and looking at it
15 briefly this morning. I don't believe so. But, you
16 know, I also don't know if this particular document is
17 the document that's referred to that was tendered to the
18 State's Attorney's Office. If you're able to establish
19 that, that it's already been produced in the criminal
20 case, then I would have to privilege over it. But I
21 don't know that as it stands by itself.

22 BY MS. WEST:

23 **Q. Mr. Hill, let me ask you this: Have you had**
24 **an opportunity to look through these handwritten notes**

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1 **in front of you?**

2 A. Yes.

3 **Q. Anywhere in these handwritten notes is it**
4 **documented that Ms. Friend told the police or the**
5 **detectives that she -- I'm sorry. Strike that.**

6 **Is there anywhere in these handwritten notes**
7 **documented that Ms. Friend indicated that the detectives**
8 **told her who to pick out of the lineup?**

9 MR. STARR: I'm going to object, again without
10 establishing that this is a document that was previously
11 produced in the criminal case that I'm going to suggest
12 this is attorney/client privilege work product.

13 MS. SCHUMACHER: And I will agree with that
14 objection. I mean, Mr. Hill has testified that it's not
15 his handwriting. He doesn't know whose it is. And I
16 don't think we received an answer as to whether this was
17 provided to the State's Attorney's Office. So without
18 that information, we would support -- You know, I would
19 also agree to a work product and attorney/client
20 privilege objection.

21 BY MS. WEST:

22 **Q. Mr. Hill, have you taken the advice of both**
23 **your counsel and Mr. Starr?**

24 A. Yeah, I believe they're saying I should not be

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1 answering this question, and I'm not going to answer
2 this question.

3 **Q. Mr. Hill, did you or anyone from your office**
4 **turn over notes such as these or others relative to**
5 **conversations with Ms. Friend -- I'm sorry -- to the**
6 **State's Attorney's Office?**

7 A. I don't recall one way or the other.

8 **Q. Were you planning on calling Ms. Friend as a**
9 **defense witness at trial?**

10 MR. STARR: Objection, invades the work product
11 privilege.

12 MS. SCHUMACHER: Agreed.

13 MS. WEST: And again, not yours to assert.

14 MS. SCHUMACHER: Agreed.

15 BY THE WITNESS:

16 A. I'm following the instruction of counsel not
17 to answer the question.

18 **Q. Did you, in fact, call Ms. Friend as a witness**
19 **at trial?**

20 A. I don't recall calling Ms. Friend as a witness
21 at trial. I believe that the State called Ms. Friend as
22 a witness at trial. That's my best recollection sitting
23 here today.

24 **Q. I'm going to show you what we'll mark as**

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Exhibit 9.

MS. WEST: For the record, it is a letter to the State's Attorney's Office regarding notes and is Bates-stamped 8574.

(A document was viewed.)

BY MS. WEST:

Q. Mr. Hill, do you have the letter dated October 29th, 2004 in front of you?

A. Yes, I have the letter dated October 29th, 2004 from Joseph Saltiel.

Q. And does it appear from this letter that this was sent -- I'm sorry. Did somebody say something? No? Okay, sorry. I'm hearing things.

Does it appear that this letter was sent to Ms. Aidan O'Connor, Assistant State's Attorney, on October 29th, 2004?

A. I don't recall the letter itself one way or the other. I mean, in looking at it, at least for what I have, I don't have a -- I just have the first page of the letter. I don't have a signature page. So I don't know whether it was sent to ...

Q. Sure. And all I'm asking is on the face of this document, do you see that it looks like it's directed to Ms. Aidan O'Connor, Assistant State's

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1 **Attorney, at 2650 South California Avenue, Chicago,**
2 **Illinois?**

3 A. Yes, I do see that it appears to be addressed
4 to Aidan O'Connor.

5 Q. Okay. If I could just direct your attention
6 to the third paragraph, the second sentence indicates,
7 "I talked to Ms. Friend in late March 2004, prior to the
8 first scheduled trial date, April 29th, 2004." This
9 letter, you previously indicated, was from Joseph
10 Saltiel, correct?

11 A. The letter appears to be from Joseph Saltiel,
12 and I think you're talking about the fourth paragraph
13 after the ...

14 Q. Yes, you're correct, the fourth paragraph.
15 Does that -- That sentence that I just read into the
16 record, does that indicate to you that Mr. Saltiel had a
17 conversation with Ms. Friend in March of 2004?

18 A. I mean, this letter says, "I had talked to
19 Ms. Friend in late March 2004, prior to the first
20 scheduled trial date, April 29, 2004. I had disclosed
21 this interview, the existence of notes, and Ms. Friend's
22 current whereabouts to your predecessor, Stu Sergeant,
23 when he was unable to locate Ms. Friend for that first
24 trial date." And it goes on further to talk about the

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1 Illinois Supreme Court Rule.

2 Q. My question to you is, do you have an
3 independent recollection of Mr. Saltiel informing you
4 that he had spoken with Ms. Friend --

5 MR. STARR: I'm going to object --

6 BY MS. WEST:

7 Q. -- pretrial?

8 MR. STARR: Sorry. I thought you were done. I
9 apologize for interrupting you. I'm going to object. I
10 believe that -- Strike that. I believe that is the
11 basis of the attorney work product privilege.

12 MS. SCHUMACHER: Agreed.

13 MS. WEST: Based on the fact that Mr. Saltiel is
14 putting in a letter that he, in fact, spoke with
15 Ms. Friend in March of 2004, my question is whether or
16 not Mr. Hill knew that. I don't think any of that is
17 privileged. It's a yes or no question.

18 MR. STARR: I thought your question -- Maybe I
19 misheard you. I thought you asked did Mr. Saltiel tell
20 Mr. Hill that.

21 MS. WEST: That he had a conversation.

22 MR. STARR: Yeah.

23 MS. WEST: So yes or no, he did tell him or he
24 didn't tell him.

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1 MR. STARR: I thought you asked -- My recollection
2 is that you asked him if they had a conversation about
3 it, and I think that conversation is attorney work
4 product.

5 BY MS. WEST:

6 Q. Let me ask it this way then: Mr. Hill, did
7 Mr. Saltiel ever -- Strike that.

8 Mr. Hill, were you aware that Mr. Saltiel had
9 a conversation with Ms. Friend pretrial?

10 MR. STARR: Again if it implicates work product, I
11 think he should not testify to that. I mean, if you're
12 trying to ask him, did he tell -- was he aware of this
13 letter -- when he sent this letter, was he aware that he
14 disclosed to the State's Attorney's Office that he had
15 spoke with Ms. Friend, I think that's a fair question.
16 But I think if you're asking did he talk to him about
17 that conversation, that's work product.

18 MS. WEST: I'm not. That's not what I asked.

19 Amie, would you mind reading back the
20 question, please.

21 (Record read as requested.)

22 MS. SCHUMACHER: So we agree with the objection. I
23 mean, you can -- to the extent this letter was, in fact,
24 sent to the Assistant State's Attorney, Mr. Hill can

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1 testify, if you would like him to, as to what -- read to
2 you what this letter states, but he is not to reveal any
3 work product.

4 MS. WEST: I understand.

5 BY MS. WEST:

6 **Q. Mr. Hill, are you taking the advice of your**
7 **counsel?**

8 A. Absolutely.

9 **Q. Okay. I think we've already established**
10 **you've never seen this letter or you don't have a**
11 **recollection of seeing this letter to the State's**
12 **Attorney's Office from October of '04?**

13 A. I don't presently have a recollection of this
14 specific letter.

15 **Q. Would it have been your custom and practice to**
16 **speak with any eyewitnesses prior to trial in**
17 **preparation for trial?**

18 A. It would be my practice for someone on the
19 team to have spoken to witnesses if that was possible.

20 **Q. And is that to determine that witness's role**
21 **in the case?**

22 A. It could be for many reasons.

23 **Q. What are some of the reasons?**

24 A. It could be to understand what they have to

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1 say, what the facts are.

2 Q. I'm sorry. Let me just direct your attention
3 back to that one more time. That same paragraph, the
4 fourth paragraph, under the italicized portion, that
5 next sentence, "Under my interpretation of this rule, I
6 am not required to produce any notes from my
7 conversation with Ms. Friend because Mr. Fletcher does
8 not intend to call her as a witness." Do you see that?

9 A. Yes.

10 Q. Okay. So that confirms that, in fact, the
11 defense did not intend to call Ms. Friend as a witness
12 at trial, correct?

13 A. I mean, that seems to implicate the work
14 product privileges. You're asking what our intentions
15 were with regard to our representation of this
16 particular defendant. So I can't give you an answer to
17 that, but I think you can look at the trial transcript
18 and you can figure out that we didn't call Ms. Friend
19 and that she was called by the State as a witness in the
20 case.

21 Q. What I was getting to is, based on that
22 representation, it looks like notes would not have been
23 turned over, correct?

24 A. I don't recall or know one way or the other.

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1 And I think it's all privileged unless you have
2 something that suggests it wasn't, and I haven't seen
3 that.

4 **Q. Do you have an independent recollection of**
5 **Ms. Friend at any point in time changing her story?**

6 MR. STARR: I think that invades attorney work
7 product again. If he can testify to that without
8 invading any work product, then he can testify about it.
9 But if it implicates any conversations he had that were
10 work product privilege, then he shouldn't testify to it.

11 MS. SCHUMACHER: Agreed, Mr. Hill is instructed not
12 to reveal attorney work product or attorney/client
13 conversations.

14 BY MS. WEST:

15 **Q. Mr. Hill, can you answer that question without**
16 **revealing any privileged communication or work product?**

17 A. You know, for this one, I'm going to talk to
18 my attorney so we can go off the record.

19 MS. SCHUMACHER: Take a break.

20 (A short recess was had.)

21 MS. WEST: Ashley, feel free.

22 MS. SCHUMACHER: So if you can refresh us as to the
23 question on the table. Mr. Hill has been instructed to
24 not testify as to anything work product or otherwise

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1 privileged. So to the extent he can testify without
2 revealing any work product or other privileges, he may
3 be able to do so.

4 (Record read as requested.)

5 MR. STARR: Same objection, same instruction.

6 MS. SCHUMACHER: Agreed.

7 BY THE WITNESS:

8 A. So I do have a specific recollection of having
9 a conversation with Ms. Friend at the court at 26th and
10 California. And I don't remember the exact words that
11 were used in exchange between us, but I was asking her,
12 you know, whether she thought Fletcher was the guy who
13 had done this, and she expressed some doubt about that.
14 It was in the open courtroom maybe kind of during a
15 break. I remember that because that was generally the
16 only time we saw Ms. Friend. Typically she was showing
17 up only when she was arrested. And that was in stark
18 contrast to the testimony she gave at the trial, which
19 you can check the transcript, but my 20-year-old memory
20 suggests that she said she was 100 percent sure it was
21 Fletcher, although she couldn't give any description of
22 the other perpetrator.

23 **Q. And this conversation that you had with**
24 **Ms. Friend at 26th and Cal, was it before the trial had**

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1 **commenced?**

2 A. I believe it was not on the day of the trial
3 or not on a day we had trial but maybe on some pretrial
4 date.

5 **Q. You testified that Ms. Friend had indicated**
6 **some doubt in her identification; is that correct?**

7 A. Yes, that's my synopsis of it.

8 **Q. Do you recall the specific words that she used**
9 **that you've summarized as doubt?**

10 A. I don't remember the specific words, quite
11 frankly. I mean, it's been a number of years. But I do
12 remember the stark contrast between both her actions and
13 sort of being evasive and then that conversation in
14 contrast to what she ultimately said in testimony when
15 called by the State.

16 **Q. During your conversation with Ms. Friend, did**
17 **she ever tell you that the police told her what offender**
18 **to pick out?**

19 A. I don't remember that. I don't remember that.
20 And I didn't really have a chance to engage her. Like I
21 said, this was kind of in the midst of whatever was
22 going on in court.

23 **Q. Following this conversation that you had with**
24 **Ms. Friend where she expressed doubt, did you follow up**

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1 **with any subsequent communication with Ms. Friend?**

2 A. Not that I can recall.

3 **Q. To your knowledge, did anyone on your team**
4 **have any conversation with Ms. Friend subsequent to this**
5 **conversation you had with her?**

6 MR. STARR: Objection. I believe again that's work
7 product privileged.

8 MS. SCHUMACHER: Agree.

9 BY THE WITNESS:

10 A. The answer is I don't know.

11 **Q. And you testified that Ms. Friend, her**
12 **testimony at trial was a stark difference from your**
13 **conversation with her; is that correct?**

14 A. I believe that's what I said.

15 **Q. So is it safe to say that based on that, you**
16 **have some memory of her testimony at trial?**

17 A. A little bit.

18 **Q. Do you recall that Ms. Friend, at trial,**
19 **identified Mr. Fletcher as the offender?**

20 A. I do remember that.

21 **Q. Do you have a recollection of cross**
22 **examining -- or the cross-examination of Ms. Friend?**

23 A. I don't.

24 **Q. Do you know if you -- if Ms. Friend was your**

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1 **witness?**

2 MR. STARR: Asked and answered.

3 BY THE WITNESS:

4 A. I don't remember -- I don't remember, sitting
5 here right now. And I assume by "my witness," you mean
6 did I examine her at trail or cross-examine her.

7 **Q. Yes, sir. I'm going to show you what we'll**
8 **mark as Exhibit 10. It's a letter to Mr. -- it's the**
9 **letter dated September 14th, '04.**

10 MS. WEST: For the record, it's Bates Stamp
11 Fletcher 8592.

12 (A document was viewed.)

13 MR. STARR: And for the record, I would object that
14 this is attorney/client communications and therefore
15 privileged as it indicates at the top of the letter.
16 This document is subject to our clawback. We object. I
17 think it's improper to be used at this deposition.

18 MS. SCHUMACHER: Agreed and reveals work product.

19 MS. WEST: For the record, I'm just going to
20 reiterate that I've stated my position earlier with
21 regard to the documentation that was turned over.

22 BY MS. WEST:

23 **Q. Mr. Hill, do you have the letter dated**
24 **September 14th, 2004 in front of you?**

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1 A. I do, the one that is Fletcher 8592.

2 **Q. The second paragraph --**

3 MS. WEST: And again for the record, let's mark any
4 reading that I do from the document as confidential
5 based on counsel's objections.

6 MR. STARR: And I would reiterate that any reading
7 that is done in this deposition is highly improper given
8 the clawback.

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BY MS. WEST:

Q. Are you taking the advice of your attorney, sir?

A. Yes, I'm following the advice of the attorneys.

Q. Did you ever talk to Mr. Fletcher's father prior to trial?

MR. STARR: Same objection.

MS. SCHUMACHER: Agreed.

MR. STARR: Same instruction.

BY THE WITNESS:

A. I was just going to ask, can I answer yes or no?

MR. STARR: If it's a yes or no question, then I think that's fine. But I think if she's asking any content of any conversation that reveals work product, then I would suggest that you should refrain from answering.

MS. SCHUMACHER: I agree.

THE WITNESS: Could you read back the question, please? I believe it was, did I have a conversation

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1 with Mr. Fletcher, Jimmy's father, before trial.

2 (Record read as requested.)

3 BY THE WITNESS:

4 A. Yes.

5 **Q. Mr. Fletcher's father was called as a witness**
6 **at trial, correct?**

7 A. I believe he was.

8 **Q. You did not represent Mr. Fletcher's father as**
9 **his counsel, correct?**

10 A. No, I spoke to Mr. Fletcher in the course of
11 my representation of Jimmy Fletcher.

12 **Q. During your conversation with -- Strike that.**
13 **When did you have this conversation with**
14 **Mr. Fletcher, Sr., prior to trial?**

15 A. I don't remember any specific conversation,
16 but I know that I spoke to him at some point before
17 trial.

18 **Q. Did you ever have a conversation -- Strike**
19 **that.**

20 **Among those conversations that you had with**
21 **Mr. Fletcher, Sr., did you ever discuss any**
22 **communications that Mr. Fletcher, Sr., had with**
23 **Ms. Friend?**

24 A. I don't recall that.

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1 **Q. Do you have an independent recollection of**
2 **being informed that -- Strike that.**

3 **Do you have an independent recollection of**
4 **Mr. Fletcher, Sr., telling you that he was on a**
5 **three-way phone call with Ms. Friend where she expressed**
6 **doubt as to the identification of Mr. Fletcher?**

7 MR. STARR: Objection, asked and answered. And to
8 the extent that it invades attorney work product, I
9 would suggest that you refrain from answering.

10 MS. SCHUMACHER: Agreed.

11 BY THE WITNESS:

12 A. I'm going to follow the attorneys'
13 instructions and not give an answer.

14 **Q. Do you recall Mr. Fletcher, Sr.'s, testimony**
15 **at trial?**

16 A. Not particularly.

17 **Q. Do you have a recollection of whether or not**
18 **Mr. Fletcher, Sr., testified at trial about having a**
19 **phone call where Ms. Friend expressed doubt as to her**
20 **identification of his son, Mr. Fletcher, as the**
21 **offender?**

22 A. I don't recall any such testimony.

23 **Q. I'm going to show you what we'll mark as**
24 **Exhibit 11. It's an e-mail from Mr. Saltiel to Mr. Hill**

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1 **dated 9/14/04.**

2 **(A document was viewed.)**

3 MR. STARR: Again, this is another communication
4 that we are clawing back. We think it's improper to use
5 it as an exhibit given our clawback. We object,
6 attorney work product, and I believe it also indicates
7 attorney/client privilege if I remember correctly.

8 MS. SCHUMACHER: We agree with those objections.

9 BY MS. WEST:

10 **Q. Mr. Hill, do you have the document that is in**
11 **front of you?**

12 MS. WEST: For the record, it's Bates stamp
13 Fletcher 8785.

14 BY MS. WEST:

15 **Q. And it appears to be an e-mail from**
16 **Mr. Saltiel to you on September 14th, 2004.**

17 A. Yes, I have that document in front of me,
18 Fletcher 8785.

19 **Q. Yes, sir. Thank you. Do you recall receiving**
20 **this e-mail?**

21 A. No.

22 **Q. If you could just take a moment to read it and**
23 **let me know when you're finished, please.**

24 A. I've read it.

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1 **Q. Does this refresh your memory at all about**
2 **whether you were ever informed by Mr. Fletcher, Sr.,**
3 **that he had a three-way conversation with Ms. Friend?**

4 MR. STARR: Same objection, same instruction.

5 MS. SCHUMACHER: Agreed.

6 BY THE WITNESS:

7 A. This does not refresh my recollection.

8 **Q. Were there allegations made by Ms. Friend at**
9 **the time of the trial that Mr. Fletcher's family was**
10 **making threats or attempting to intimidate her?**

11 MR. STARR: Allegations made directly to Mr. Hill
12 or allegations made generally? I'm sorry.

13 BY MS. WEST:

14 **Q. I'm just asking generally, were you aware if**
15 **any allegations were made by Ms. Friend at the time of**
16 **trial that Mr. Fletcher's family was making threats or**
17 **intimidating her?**

18 A. You know, what I recall about that is I don't
19 believe Ms. Friend ever gave a firsthand account of
20 that. I don't -- I don't recall. I do remember there
21 were some allegations that she was getting some threats.
22 I don't believe -- I don't recall it being supposedly
23 from Jimmy's family in any respect. But I do remember
24 there were some allegations, I believe, made by the

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1 State that she was getting some threats. And the judge
2 suggested that -- what did the -- I can't remember. You
3 would have to go look at the transcript, but he was,
4 under some circumstance, going to let the hearsay about
5 some threats come into the case under some condition.
6 But I don't remember what it was. But I specifically
7 don't ever remember that these were supposed to be
8 threats from Jimmy's family. I don't remember anybody
9 saying that. But there was some colloquy on the record,
10 which you can go and look at if it's there, if there is
11 a transcript with reference to her supposedly -- there
12 supposedly being some threats. But I don't remember
13 that they were ever being directed as coming from
14 Jimmy's family.

15 **Q. Is your memory that the State is the first**
16 **individual to raise these allegations of threats?**

17 A. Yeah, that's my recollection. I'm not sure
18 who else would have been able to raise it. We were in
19 court. The attorneys were speaking.

20 **Q. Did you ever hear Ms. Friend speak in court**
21 **and say she was receiving threats?**

22 MR. STARR: Asked and answered.

23 BY THE WITNESS:

24 A. I don't recall that one way or the other. I

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1 remember it coming up in court. I don't remember -- You
2 know, I remember Ms. Friend typically was arrested and
3 brought to court. But I don't remember -- I don't
4 specifically remember some testimony regarding the
5 threats. I think it was more something from the State's
6 Attorneys. But this has been almost 20 years, so I
7 couldn't say for certain one way or the other. But I
8 don't ever remember any allegation that it was somebody
9 in Jimmy's family making threats to her.

10 **Q. Do you have a recollection of what the threats**
11 **were?**

12 A. I don't. I don't. I don't specifically.

13 **Q. Do you have a recollection of -- I understand**
14 **you have a recollection that it wasn't Mr. Fletcher's**
15 **family. Do you have a recollection of who the State or**
16 **Ms. Friend was claiming these threats were coming from?**

17 MR. STARR: Objection, form.

18 BY THE WITNESS:

19 A. I don't. I'm sorry.

20 **Q. Do you recall a witness, Terry Rogers?**

21 A. I remember an individual, Terry Rogers,
22 showing up in the police reports. I never met Terry
23 Rogers. I never spoke to Terry Rogers. I don't know
24 whether he exists.

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1 **Q. Do you recall what the individual by the name**
2 **of Terry Rogers that showed up in the police report,**
3 **what that individual's involvement was in the underlying**
4 **crime?**

5 A. I wasn't there at the underlying crime.
6 There's some police reports that include Terry Rogers'
7 statement is what I recall. But I don't have any direct
8 knowledge of Terry Rogers, as I indicated. I never
9 spoke to him. I never saw him. I looked for him. We
10 couldn't find him.

11 **Q. So you did attempt to locate an individual by**
12 **the name of Terry Rogers?**

13 A. Well, you know, I should go back. I'm not --
14 I know there were attempts to find him, and the State
15 was supposed to be looking for him. I don't recall -- I
16 don't recall specifically with regard to our -- to
17 efforts to locate Terry Rogers, but I do know that he
18 never surfaced.

19 **Q. Was Terry Rogers a witness that the State**
20 **identified in discovery?**

21 A. Terry Rogers was identified in discovery. He
22 shows up in discovery. I don't know whether they ever
23 said he was a witness or going to be a witness at the
24 trial, if that's what you mean.

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1 **Q. Do you recall the State filing a motion to**
2 **have an out-of-state witness, Terry Rogers, served and**
3 **be present for trial?**

4 A. I don't recall that specifically.

5 **Q. Do you recall the State asking for a**
6 **continuance of the trial in order to secure Mr. Rogers**
7 **as a witness at trial?**

8 A. I believe there were some continuances that
9 were requested in view of the unavailability of certain
10 witnesses and including Terry Rogers.

11 **Q. Was Mr. Friend also one of those unavailable**
12 **witnesses that they continued trial for or requested a**
13 **continuance for?**

14 A. I believe so. I mean, you could check the
15 transcript for the records. But I believe Ms. Friend
16 was sometimes unavailable and didn't show up for the
17 court date. And typically when she was available, she
18 had to be brought in typically by the police and
19 probably had spend the night in Cook County Jail.

20 **Q. Were you aware that Mr. Fletcher knew Terry**
21 **Rogers in 1990?**

22 MR. STARR: Objection to the extent that it invades
23 attorney/client privilege. I would instruct the witness
24 not to answer.

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1 MS. SCHUMACHER: Agreed.

2 BY THE WITNESS:

3 A. And just to be clear, you're talking about
4 Mr. Fletcher, Jr., or Mr. Fletcher, Sr.?

5 **Q. Mr. Fletcher, Jr.**

6 A. I'll follow the attorneys' instructions not to
7 answer the question.

8 **Q. And in this case in litigation, we've deposed**
9 **Mr. Fletcher, Jr., and he testified during his**
10 **deposition that he knew who Terry Rogers was before the**
11 **homicide took place in 1990. So with that in mind, I**
12 **would say any communication on that one is out there.**
13 **Mr. Fletcher testified to it. So my question to you is,**
14 **did you ever learn if Mr. Fletcher knew Terry Rogers**
15 **prior to the homicide in 1990?**

16 MS. SCHUMACHER: Does your objection stand,
17 Mr. Starr?

18 MR. STARR: I mean, Allyson, you know,
19 understanding that Mr. Fletcher did testify to that, you
20 know, I think if you're asking him did he have
21 conversations with his client back during his
22 representation, that's privileged. If you can reframe
23 your question to ask it in a way that doesn't invade
24 that privilege, then I think it's fine. Just because

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1 Mr. Fletcher testified to something doesn't necessarily
2 mean that you can invade the previous privilege that
3 existed between Mr. Hill and his client.

4 BY MS. WEST:

5 **Q. Mr. Hill, were you aware that Mr. Rogers and**
6 **Mr. Fletcher knew of each other prior to 1990?**

7 MR. STARR: Same instructions and the same
8 objection. I mean, you just said that he was aware of
9 it. You said that he testified so he is now aware of
10 it, I guess. But beyond that, I think he can't invade
11 their previous conversations.

12 MS. WEST: That's fine. And perhaps Mr. Hill knew
13 of their relationship from another source other than
14 Mr. Fletcher telling him.

15 MS. SCHUMACHER: Right.

16 BY THE WITNESS:

17 A. I don't have any non-privileged information to
18 add to the -- to answer that question.

19 **Q. Thank you. Do you know an individual by the**
20 **name of Anthony Powell?**

21 A. I do not, not that I recall right now.

22 **Q. Do you have a recollection of Mr. Fletcher**
23 **telling you that Terry Rogers testified against Anthony**
24 **Powell at his murder trial?**

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1 MR. STARR: Same objection, same instruction.

2 BY MS. WEST:

3 Q. Are you following the advice of Mr. Starr?

4 A. I don't recall.

5 Q. Do you have a recollection of ever trying to
6 obtain testimony, a transcript of testimony of Terry
7 Rogers, in a criminal proceeding against Anthony Powell?

8 MS. SCHUMACHER: Objection to the extent it calls
9 for any work product or attorney/client privilege.

10 BY MS. WEST:

11 Q. Are you taking advice of your counsel?

12 A. What was the question again?

13 MS. WEST: Amie, do you mind to read it back,
14 please.

15 (Record read as requested.)

16 THE WITNESS: I'm sorry. One more time.

17 (Record read as requested.)

18 BY THE WITNESS:

19 A. I do not recall.

20 Q. I'm going to show you what we'll mark as
21 Exhibit 12.

22 MS. WEST: For the record, this is Bates stamp 8597
23 through 98, Fletcher 8597 through 98.

24 (A document was viewed.)

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1 MR. STARR: And for the record, this is clearly
2 attorney/client communication, and we object. And this
3 is a document that we clawed back this morning. And we
4 object that any use of it at this deposition violates
5 the protective order, it's improper, and violates the
6 rules of professional conduct.

7 MS. SCHUMACHER: Agreed.

8 BY MS. WEST:

9 Q. Mr. Hill, do you have this document in front
10 of you, sir?

11 A. I do.

12 Q. If you can take a look at the second page,
13 8598, I will direct your attention to third paragraph
14 from the bottom that begins with "Just in case." Do you
15 see that paragraph, sir?

16 A. I see it.

17 Q. Can you take a moment and read that paragraph,
18 please?

19 A. I've read it.

20 Q. Thank you. Does that paragraph that you just
21 read refresh your memory as to whether or not you ever
22 attempted to obtain a transcript of Terry Rogers
23 testifying against an individual by the name of Anthony
24 Powell?

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1 MR. STARR: I'm going to object and suggest that it
2 invades attorney work product. And to the extent it
3 invades attorney/client privilege, I'm going to assert
4 the privilege and instruct the witness not to answer.

5 MS. SCHUMACHER: Agreed.

6 BY THE WITNESS:

7 A. I'm going to follow the instruction and not
8 answer the question.

9 Q. Sorry. I did not mean to take that down. Let
10 me ask you one more question on that document while
11 we've got it. I'll pull it back up for counsel.

12 (A document was viewed.)

13 BY MS. WEST:

14 Q. The first page, the first paragraph, can you
15 read to yourself and please let me know whenever you're
16 finished.

17 A. You said the first page, the first paragraph?

18 Q. Yes, that begins with "I think it's best."

19 A. I've read it.

20 Q. Thank you. Mr. Hill, Ms. Debra Sanders is
21 Jimmy Fletcher's ex-wife, correct?

22 A. I don't recall exactly.

23 Q. Did an individual by the name Debra Sanders
24 testify at trial for the defense?

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1 A. I don't recall. I know that Jimmy had a
2 significant other who testified as a witness in our
3 case. I don't remember her name. I don't remember what
4 her direct relationship with Jimmy was other than they
5 had had some relationship.

6 **Q. And do you recall the significant other's**
7 **testimony that she gave at trial?**

8 A. I recall some of it, the testimony at trial,
9 not the specifics. But I presume there is a transcript.

10 **Q. And that individual, was she put forth as an**
11 **alibi witness?**

12 MR. STARR: I'm going to object to the extent that
13 it calls for a legal -- attorney work product. If you
14 can answer that without revealing mental impressions or
15 attorney work product or any attorney/client privilege
16 for that matter, you can testify. But if you can't, I'm
17 going to instruct you not to answer.

18 MS. SCHUMACHER: Agreed.

19 BY MS. WEST:

20 **Q. Can you answer that question?**

21 A. I don't have an answer that wouldn't invade
22 the privilege. It sounds like you know who testified
23 from the transcript.

24 **Q. Let me ask you this: In a criminal**

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1 **proceeding, you are to identify specifically in**
2 **discovery whether or not you're putting forth an alibi**
3 **defense, correct?**

4 A. To be honest with you, it's been a while since
5 I looked at criminal procedure on that particular issue,
6 so I can't give you an answer one way or the other. I'd
7 have to have somebody go and refresh my recollection and
8 do some research on that.

9 Q. Do you have an independent recollection of
10 ever disclosing an alibi witness one way or the other?

11 A. I don't recall. You mean ever in any of my
12 cases?

13 Q. I'm sorry. Specifically in Mr. Fletcher's
14 case.

15 A. I don't recall specifically in Mr. Fletcher's
16 case.

17 Q. The significant other that testified at trial,
18 was she able to pinpoint the specific date and time in
19 which she was with Mr. Fletcher?

20 MR. STARR: Objection, asked and answered.

21 BY THE WITNESS:

22 A. You know, I don't recall her specific
23 testimony. I do believe that we made some arguments in
24 closing. Again I'm sure you have the transcript. I

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1 think there was enough evidence to show the general time
2 frame within which Jimmy was in the company of the
3 significant other. But all the specific facts of that,
4 I don't remember. But I do remember that it was
5 somewhat litigated and covered in the arguments that
6 were made.

7 **Q. You previously testified that you remember a**
8 **witness, Mr. Cooper, correct?**

9 A. Yes.

10 **Q. Did you ever personally speak with Mr. Cooper**
11 **prior to trial?**

12 A. I don't remember speaking to Mr. Cooper.

13 **Q. Do you have a recollection of your**
14 **investigator speaking with Mr. Cooper prior to trial?**

15 MR. STARR: To the extent that it invades work
16 product, I would suggest he doesn't answer. If you can
17 answer without invading any work product, then that's
18 fine.

19 MS. SCHUMACHER: Agreed.

20 BY MS. WEST:

21 **Q. Can you answer, Mr. Hill?**

22 A. I don't recall.

23 **Q. Sorry. Because of all the objections, I just**
24 **want to make sure I understand. You don't recall**

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1 **whether or not an investigator spoke with Mr. Cooper; is**
2 **that your testimony?**

3 A. Yeah, I mean, sitting here right now, I just
4 don't -- I just don't recall.

5 **Q. I'm going to show you what we'll mark as**
6 **Exhibit 13.**

7 **(A document was viewed.)**

8 MS. WEST: For the record, this is a letter from
9 Jim Zarnick to Mr. Saltiel, and it's dated
10 September 28th, 2004, and it's Bates-stamped Fletcher
11 546 through 547. And, Sean, I can represent to you that
12 this was, in fact, turned over to the State?

13 MR. STARR: Yeah.

14 MS. WEST: You know that.

15 MR. STARR: I acknowledge that, yes.

16 BY MS. WEST:

17 **Q. Mr. Hill, do you have this document in front**
18 **of you?**

19 A. I do.

20 **Q. Thank you. Have you ever seen this document**
21 **before?**

22 A. I mean, sitting here today I don't recall
23 seeing this before. It's possible I did, but I don't
24 recall seeing it before right now.

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1 **Q. Okay. And I'm sorry. Have you had the**
2 **opportunity to read through this or glance through this**
3 **document?**

4 A. I have not.

5 **Q. Okay. Why don't you do that and I'll ask you**
6 **a few questions.**

7 THE REPORTER: Ms. West, would now be a good time
8 to bring in the other reporter?

9 MS. WEST: Sure.

10 THE REPORTER: Okay. I'm going to go off the
11 record then.

12 (A short recess was had whereupon
13 there was a transition of court
14 reporter.)
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1 BY MS. WEST:

2 Q. Mr. Hill, have you had the opportunity to
3 review what we have marked as Exhibit 13?

4 A. Yes. That is Fletcher 546 and 547?

5 Q. Yes.

6 A. Yes.

7 Q. It looks like from that report that your
8 office requested that Mr. Zarnick locate and speak with
9 Mr. Cooper, correct?

10 A. That's reflected in this letter. I don't have
11 any independent recollection of that.

12 Q. And based on the report in front of you, it
13 looks like -- I will direct you to the third paragraph.
14 It looks like Mr. Cooper told Mr. Zarnick that when the
15 detective came to his house and reviewed the photo
16 array, he picked someone out, but he told him he
17 couldn't be a hundred percent sure. Do you see that? I
18 will pull it up for you.

19 MS. SCHUMACHER: Where are you?

20 MS. WEST: It's the third photograph. I will pull
21 it up on here. I guess I should say the third
22 paragraph after report of telephone interview.

23 BY THE WITNESS:

24 A. Okay. I see that paragraph.

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1 **Q. Okay. Onto the second page of this document**
2 **here at the top, based on this report, does it appear**
3 **that Mr. Cooper told Mr. Zarnick that he informed the**
4 **detective that he could not be a hundred percent sure of**
5 **his identification of the photo array?**

6 A. I am sorry. I missed the question.

7 MS. WEST: Susie, do you mind reading it back,
8 please?

9 (Record read as requested.)

10 BY MS. WEST:

11 A. I'm just reading the paragraph. This is what
12 apparently Mr. Zarnick is saying, that Mr. Cooper stated
13 that he was not able to positively identify the person
14 who robbed him and explained that the reason he was not
15 able to do so was because the robbery happened too long
16 ago. When asked if any of the men looked familiar, he
17 picked out one of the photos, but again stated he could
18 not be 100 percent sure. So this does state that.

19 **Q. And Mr. Cooper testified consistent to that at**
20 **trial, correct?**

21 MR. STARR: Objection to form, foundation.

22 BY MS. WEST:

23 **Q. Go ahead, Mr. Hill.**

24 A. I mean, you have the transcript. And you

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1 could see what he testified to. I mean, what I recall
2 about it -- and, again, it's almost 20 years -- is he
3 said he was about 70 percent sure. And 70 percent would
4 be consistent with not 100. I'm not sure it's exactly
5 the same thing, but that is what I would recall his
6 testimony was.

7 **Q. And do you see on down one more paragraph? It**
8 **starts with approximately two or three days later?**

9 A. Yes. I see that paragraph.

10 **Q. That paragraph, it appears that Mr. Cooper**
11 **indicated to Mr. Zarnick that -- I am going to read the**
12 **last sentence here. When he asked if any of the**
13 **individuals from the lineup were the ones who robbed**
14 **him, he picked out one of the males from the lineup, but**
15 **again stated he was not a hundred percent sure because**
16 **the incident happened too long ago. Do you see that?**

17 A. I see that.

18 **Q. Do you have a recollection of whether or not**
19 **Mr. Cooper testified consistent with that statement at**
20 **trial?**

21 A. I don't recall one way or the other, but there
22 is a transcript. And whether it's consistent or not,
23 it's probably a matter of judgment.

24 **Q. Do you have a memory of cross-examining**

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1 **Mr. Cooper on his accuracy of identifying Mr. Fletcher**
2 **at the time of the lineup?**

3 A. No.

4 Q. You didn't call Mr. Zarnick to testify about
5 his report that he wrote relative to his conversations
6 with Mr. Cooper, correct?

7 A. I don't remember Mr. Zarnick being called as a
8 witness at all in the case.

9 Q. Have you had any communication with Mr. Cooper
10 since the 2005 criminal trial?

11 A. Not that I recall, no.

12 Q. I'm going to show you what we will mark as --
13 Strike that.

14 Actually, let's mark this as 14.

15 For the record, this is a July 22nd, 2005,
16 letter, which is Bates-stamped Fletcher 8458.

17 MR. STARR: And, for the record, I'm going to
18 object to you entering this as an exhibit as it is a
19 document that represents attorney/client communications
20 and therefore is privileged and is subject to our
21 clawback. And we object to the use of it at this
22 deposition. It's a protective order. It violates the
23 rules of professional responsibility, and we also think
24 that it is improper.

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1 MS. SCHUMACHER: We agree with that objection.

2 BY MS. WEST:

3 Q. Mr. Hill, do you have the letter dated
4 July 22, 2005 in front of you?

5 A. Yes, I do.

6 Q. Based on this letter, it looks like
7 Mr. Saltiel informed Mr. Fletcher that it would be
8 inappropriate to contact Mr. Cooper. Do you see that?

9 MR. STARR: I'm going to object to questions about
10 this letter because this exhibit is privileged and has
11 been clawed back. I'm going to instruct the witness not
12 to answer any questions about this letter.

13 MS. SCHUMACHER: I agree. And attorney work
14 product.

15 BY THE WITNESS:

16 A. I'm going to follow the instructions of the
17 lawyers and not respond to the question.

18 Q. Thank you.

19 Do you have a recollection of the detectives
20 that were involved in the underlying investigation?

21 A. I have a recollection there were detectives
22 involved, but that is about it.

23 Q. Do you recall the name Detective Bogucki?

24 A. It sounds vaguely familiar to me, but I don't

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1 remember the detectives' names, per se.

2 **Q. Did any detectives testify at trial?**

3 A. I believe some police officers testified at
4 trial. There is a transcript of it. I believe police
5 officers did testify at trial.

6 **Q. Does the name Detective Schalk sound familiar**
7 **to you?**

8 A. It does.

9 **Q. Do you know if he was involved in the**
10 **underlying investigation?**

11 A. I don't remember exactly who the detectives
12 were, but I know their names show up throughout many
13 years of court records.

14 **Q. Do you recall an individual detective by the**
15 **name of Anthony Noradin being involved in the**
16 **investigation at all?**

17 A. No.

18 **Q. Do you recall an individual by the name of**
19 **Sergeant Anthony Wojcik being a part of the**
20 **investigation at all?**

21 A. I don't know. The name sounds a bit familiar,
22 but I don't have a specific recollection of who he is or
23 what his role would have been.

24 **Q. Is it safe to say since you don't have a**

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1 **recollection of the detectives in the underlying**
2 **investigation, you can't testify as to your knowledge as**
3 **to who was lead detective or the lead detectives in the**
4 **underlying investigation?**

5 A. Well, I'm not sure about the premise of your
6 question, but I don't know who the lead detective was as
7 a matter of fact at this point.

8 **Q. Did you ever file any motions to suppress or**
9 **quash the arrest based on any allegations of threats or**
10 **physical harm on behalf of detectives?**

11 A. I think I missed the last part of that
12 question.

13 Can you reread the question, please?

14 (Record read as requested.)

15 BY THE WITNESS:

16 A. I don't remember filing anything on behalf of
17 any detectives, but I don't remember that specifically.

18 **Q. Sorry. That was probably a poor question on**
19 **my part.**

20 **Did you ever file a motion to suppress or a**
21 **motion to quash the arrest on behalf of Mr. Fletcher**
22 **where you alleged or made an argument that the arrest**
23 **should be quashed based on the detective inflicting**
24 **physical harm or abuse on Mr. Fletcher?**

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1 A. I don't recall that type of motion, but the
2 court record would probably be better than my memory on
3 that particular point.

4 **Q. Are you aware in 2018 that Mr. Fletcher**
5 **contacted TIRC or the Torture Inquiry and Relief**
6 **Commission to have his case reviewed?**

7 A. I don't have a specific recollection or memory
8 of that.

9 **Q. Let me show you what we will mark as 15.**
10 **For the record, this is Bates-stamped**
11 **TIRC_Fletcher 80 through 83. It's a letter dated**
12 **September 27, 2018.**

13 **Mr. Hill, if you could take a look at the**
14 **first page of this document where it says Torture**
15 **Inquiry and Relief Commission. Do you see that?**

16 A. I see it both in the -- it looks like the
17 salutation and also stamped there is something that
18 looks like Torture Inquiry and Relief Commission on the
19 top of the page.

20 **Q. And, Mr. Hill, are you familiar with TIRC or**
21 **the Torture Inquiry and Relief Commission?**

22 A. No.

23 MR. STARR: Counsel, did you say this is 15? I am
24 sorry to interrupt you.

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1 MS. WEST: Yes.

2 MR. STARR: Thank you.

3 BY MS. WEST:

4 Q. Mr. Hill, if I could direct your attention
5 down to the very last page which is TIRC_Fletcher 83.
6 Do you see a signature block that says Arnold Dixon?

7 A. I do.

8 Q. Did Mr. Fletcher also go by the name or alias
9 Arnold Dixon?

10 MR. STARR: To the extent this implicates any
11 previous attorney/client communications, I would object
12 and instruct him not to answer. If he knows that
13 independent of that privilege, then he could certainly
14 testify to that effect.

15 BY MS. WEST:

16 Q. Can you answer the question, Mr. Hill?

17 A. Jimmie Fletcher or James Fletcher Jr. was
18 incarcerated under the alias Arnold Dixon.

19 Q. Thank you.

20 And this appears to be a letter from Arnold
21 Dixon, a/k/a Jimmie Fletcher, as indicated by the first
22 sentence where it says, My name is Jimmie Fletcher Jr.,
23 correct?

24 A. That's what this document appears to say, yes.

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1 **Q. I would like to direct your attention to**
2 **page 3 of the document, which is Bates TIRC_Fletcher 82.**
3 **Do you see the No. 3 at the top of the page, sir?**

4 A. Yes.

5 **Q. And I think it's a new paragraph where it**
6 **says, After my attorney. Do you see that?**

7 A. I do see that.

8 **Q. If you could take a moment and read that**
9 **paragraph, and I would like to ask you a question.**

10 A. I read it.

11 **Q. Okay. Do you see in what you just read that**
12 **Mr. Fletcher makes allegations that a detective pushed**
13 **him and pulled a gun on him?**

14 A. I read that in the letter.

15 **Q. Is it your first time you're learning of this**
16 **allegation?**

17 MR. STARR: I'm going to object to the extent that
18 this calls for any sort of attorney/client
19 communication. I am going to instruct the witness not
20 to answer pursuant to that privilege.

21 MS. SCHUMACHER: Agreed.

22 BY THE WITNESS:

23 A. I'm going to follow that.

24 **Q. I'm sorry?**

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1 A. I'm going to follow the instructions of the
2 attorney, and I am not going to answer that question.

3 MS. WEST: Let me just make one comment, for the
4 record. It would be my argument that since Mr. Fletcher
5 has already identified an allegation such as this in the
6 chart's letter and in his own testimony, that any
7 privilege relative to that has been waived.

8 But, Mr. Hill, I understand your response.

9 MS. SCHUMACHER: We also have an objection on
10 attorney work product.

11 BY MS. WEST:

12 **Q. I want to show you what we will mark as 16.**

13 **For the record, this is Fletcher 8791. It's a**
14 **handwritten note.**

15 **Mr. Hill, do you have the document that we**
16 **marked as Exhibit 16 in front of you?**

17 A. Yes. I believe so, Fletcher 8791.

18 **Q. Okay. Sir, have you ever seen this document**
19 **before?**

20 MR. STARR: Before he answers, I'm going to object
21 to the extent if this is attorney work product, and I
22 have not had an opportunity to review this since they
23 were produced this morning -- or not produced but
24 tendered this morning as exhibits. I know they were

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1 originally produced by plaintiff. If this is part of
2 the inadvertent production, then it's subject to the
3 clawback. But standing alone, I'm not certain of that,
4 so I will allow some limited probing questions about it
5 to maybe establish a foundation.

6 MS. SCHUMACHER: To the extent that it violates any
7 attorney work product I will direct Mr. Hill not -- to
8 testify in a way that does not divulge any attorney work
9 product or other privilege.

10 BY THE WITNESS:

11 A. I thought the question was have I seen this
12 before?

13 **Q. Yes. It was.**

14 A. All right. No. I don't recall seeing this.

15 **Q. Okay. Is this your handwriting?**

16 A. Is it my handwriting? No.

17 **Q. Yes, sir. Do you know whose handwriting it**
18 **is?**

19 A. No.

20 **Q. Are you familiar with Mr. Saltiel's**
21 **handwriting?**

22 A. Not today.

23 **Q. Does this appear to be Mr. Saltiel's**
24 **handwriting?**

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1 A. I can't tell you one way or the other.

2 MR. STARR: Foundation.

3 BY MS. WEST:

4 **Q. Based on the note itself, does it appear to**
5 **you to be a summary of a conversation about traveling to**
6 **Mississippi?**

7 MR. STARR: To the extent that question invades
8 attorney/client communications, it's privilege and I
9 would suggest that he not -- I would instruct him not to
10 answer.

11 MS. SCHUMACHER: Agreed and also to the extent
12 that it invades attorney work product.

13 BY THE WITNESS:

14 A. I won't answer the question due to the
15 instructions by the attorneys.

16 **Q. And bear with me. I'm going to make a record,**
17 **Mr. Hill.**

18 MS. WEST: And, Susie, if you could mark anything
19 that I read off the document as confidential, please.

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MR. STARR: I was going to object to any information being read into the record as I have done in the past with exhibits that were clearly attorney/client communications that were marked in some cases attorney/client communications privilege at the top. Again, of the thousands of documents that were produced in this case by plaintiff, apparently, there was an inadvertent production of both communication letters. And also it appears here attorney notes of conversations or work product. It's unclear whether it's both or one or the other without further review. And so I am going to object to -- you know, I think it's improper to read this into the record given other objections, given our clawback. And as we previously noted, there was a privileged log produced where a number of communications were withheld and a number of notes were withheld. And so the fact that one in this case -- one note or two notes were inadvertently produced, you know, it was mistakenly done. We have clawed them back. And we think it's improper to be used as an exhibit in the deposition today.

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1 MS. WEST: And, for the record, it was already
2 stated previously, but I was just going to respond to
3 Mr. Starr at this point in time that the fact that this
4 production occurred over a year and a half ago and none
5 of these documents were marked privileged. Attorneys
6 had revised the privilege log in May of 2023, and yet
7 again failed to mark any of the documents that we are
8 using at today's deposition as privilege or confidential
9 in any manner, therefore, as my conversation with
10 counsel previously, we are going to move forward with
11 the deposition and make our record.

12 MR. STARR: I apologize. One brief follow-up. I
13 assume you mean they were not withheld as privilege by
14 plaintiff's attorney because actually several of the
15 documents you put on the screen today are marked
16 privileged at the top. They do indicate that they are
17 attorney/client privilege. And so that goes to further
18 bolster our position that if you had to -- the fact that
19 you had these documents, noticed these documents, and
20 didn't alert us, we find that to be improper as well.

21 MS. WEST: And, again, same response. It's not our
22 job to do your job, to go through a document production
23 and claim the privilege that you hold.

24 BY MS. WEST:

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1 **Q. Okay. Do you have a recollection as to**
2 **whether or not your office ever attempted to obtain**
3 **credit card records for a credit card that Mr. Fletcher**
4 **used when he was in Mississippi in 1990?**

5 MR. STARR: Same objection as to attorney/client
6 communications and attorney work product and same
7 instruction as to I would instruct the witness not to
8 answer that question because it invades the privilege --
9 multiple privileges.

10 MS. SCHUMACHER: Agreed.

11 BY THE WITNESS:

12 A. I'm going to follow the instructions and not
13 answer the question.

14 **Q. I'm going to show you what we will mark as**
15 **Exhibit 17.**

16 And, for the record, this is a letter dated
17 **May 6, 2004, Fletcher 9252.**

18 **Mr. Hill, do you have the document that we**
19 **marked as Exhibit 17 in front of you, sir?**

20 A. Yes. It's Fletcher 9252.

21 **Q. Thank you.**

22 MR. STARR: I would note, for the record, this
23 appears to be a communication between plaintiff and his
24 prior counsel, and therefore it's attorney/client

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1 privilege communications as it indicates at the top of
2 the document. And so we object to the use of the
3 document at this deposition because it's privileged and
4 we have clawed it back.

5 MS. SCHUMACHER: It's also attorney work product.
6 Just show further objection.

7 BY MS. WEST:

8 **Q. Mr. Hill, does this letter appear to be a**
9 **letter from Mr. Saltiel to Mr. Fletcher?**

10 MR. STARR: Same objection and same instruction.

11 THE WITNESS: Was there an instruction not to
12 answer?

13 MR. STARR: Same objections, same instructions.

14 THE WITNESS: I will follow the attorney's
15 instructions and not answer the question.

16 BY MS. WEST:

17 **Q. If you could take a look at the last**
18 **paragraph, please. If you could read that to yourself,**
19 **and let me know when you're finished, please.**

20 A. I read it.

21 **Q. Okay. Based on that paragraph, do you have**
22 **any memory if your office sought credit card records**
23 **relative to Mr. Fletcher's visit to Mississippi in 1990?**

24 MR. STARR: Same objection, same instruction, plus

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1 asked and answered.

2 MS. SCHUMACHER: Agreed. Attorney work product
3 also.

4 BY THE WITNESS:

5 A. I have got to follow my attorney's
6 instructions and not answer the question.

7 **Q. Mr. Hill, do you know if credit card records**
8 **or statements were even kept or maintained in December**
9 **of 1990?**

10 MS. SCHUMACHER: Objection, to the extent it
11 implicates attorney work product. Are you asking
12 specifically about records generally?

13 MS. WEST: Generally.

14 THE WITNESS: Would you read the question back to
15 me, please?

16 (Record read as requested.)

17 THE WITNESS: Was there an instruction not to
18 answer after that?

19 MS. SCHUMACHER: I could object to form. If you
20 are asking generally and it doesn't implicate attorney
21 work product, I'm okay with him answering subject to any
22 objections from Mr. Starr. But if it's directed to this
23 case in particular and it implicates attorney work
24 product or other privileges, I would say not to answer.

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1 MR. STARR: I think that Ms. West indicated it's a
2 general question, so I have no objection.

3 BY THE WITNESS:

4 A. I don't know.

5 Q. If credit card records or statements were
6 retained by banks in 1990 and you were aware that
7 Mr. Fletcher used a credit card at or around the time
8 that he was being alleged to have committed an armed
9 robbery, would you have attempted to obtain credit card
10 records to prove he was elsewhere?

11 MR. STARR: Objection, to the extent that it calls
12 for a work product privilege. I am going to instruct
13 the witness not to answer. I think if you had asked
14 that question more generally, you would get an answer
15 and I wouldn't object. But I think this is a specific
16 question that invades work product.

17 MS. SCHUMACHER: Agreed.

18 BY THE WITNESS:

19 A. I'm going to follow the instruction not to
20 answer.

21 MS. WEST: Just for the record, since I don't think
22 I have made this clear, it's my position that my
23 position in asking these questions is that by production
24 of these documents, any privileged communication or work

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1 product has been waived because they were turned over.
2 I don't think I have stated that on the record thus far
3 so I want to make that clear.

4 MR. STARR: We obviously disagree with that. I
5 think that's clear from the record I have made. I am
6 not going to go back into it, but we disagree.

7 BY MS. WEST:

8 **Q. Mr. Hill, I asked you this previously, but I**
9 **don't think I asked you the number of times. Do you**
10 **have a recollection of the number of times you spoke**
11 **with Mr. Fletcher Sr. before the 2005 criminal trial?**

12 MR. STARR: To the extent it calls for work
13 product, I would instruct him not to answer.

14 MS. SCHUMACHER: Agreed.

15 MS. WEST: I'm just looking for a number.

16 BY THE WITNESS:

17 A. I'm going to follow the instructions of the
18 attorneys and not give an answer.

19 **Q. Would you -- Strike that.**

20 **Was Mr. Fletcher Sr. actively involved in your**
21 **pretrial workup of Mr. Fletcher's criminal case?**

22 MR. STARR: Objection to form and foundation to
23 that question. And I'm not sure whether it implicates
24 work product; but if it does, I would instruct him not

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1 to answer.

2 MS. SCHUMACHER: Agreed.

3 BY THE WITNESS:

4 A. I am going to follow the instructions not to
5 answer.

6 **Q. Prior to the trial, did Mr. Fletcher Sr.**
7 **inform you that he contacted any eyewitnesses?**

8 MR. STARR: Same objection, same instruction.

9 MS. SCHUMACHER: Agreed.

10 BY THE WITNESS:

11 A. I'm going to follow the instructions not to
12 answer.

13 MS. WEST: Just for the record, Mr. Fletcher Sr.
14 was not a client of Mr. Hill. He was, in fact, an
15 individual who was called at trial, therefore any
16 communications with him would not be privilege.

17 MR. STARR: I didn't object to attorney/client
18 privilege. I objected to attorney work product.

19 MS. WEST: I don't believe it would be attorney
20 work product either. It's no different than his
21 communications with Ms. Friend or Mr. Cooper or
22 Mr. Wade.

23 THE WITNESS: Can I just take a quick break? I
24 need to speak to Ashley.

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1 MS. SCHUMACHER: Let's take a break.

2 MS. WEST: There is no pending question.

3 (A short break was had.)

4 BY MS. WEST:

5 Q. Since Mr. Fletcher's criminal trial, have you
6 had any conversations with Mr. Fletcher Sr.?

7 A. No, not that I can recall.

8 Q. Are you aware that Mr. Fletcher Sr. has been
9 in contact with some of the eyewitnesses following
10 Mr. Fletcher's 2005 trial?

11 MR. STARR: I only object to the extent that if he
12 learned that from Mr. Fletcher in communication, then
13 that would be privileged. If he's aware of it through
14 other means, which is entirely possible in this
15 litigation, then I would let him testify to it.

16 A. Can you give me the question one more time?

17 (Record read as requested.)

18 BY THE WITNESS:

19 A. I'm not aware.

20 Q. Are you aware that Mr. Fletcher Jr. filed a
21 postconviction petition in which he attached an
22 affidavit from his father in which his father states
23 that he attempted to locate and did, in fact, locate
24 several eyewitnesses to the underlying crime?

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1 A. I'm not aware of -- that he filed such -- that
2 Mr. Fletcher filed such a paper of postconviction
3 proceedings.

4 **Q. And I think we talked at least on this**
5 **earlier. But Jenner & Block's representation of**
6 **Mr. Fletcher for purposes of the criminal case ended at**
7 **the time of sentencing; is that right?**

8 A. It's difficult for me to say. I don't know
9 the answer to that question.

10 **Q. Let me show you a document that might help.**
11 **I'm going to go out of order here. This is what we**
12 **previously marked as Exhibit 19.**

13 **For the record, it's Fletcher 8420. And it's**
14 **a letter dated October 7th, 2005.**

15 **Mr. Hill, do you have this letter in front of**
16 **you?**

17 A. I do have a letter that is Fletcher 8420 Bates
18 numbered in front of me.

19 **Q. Thank you.**

20 **Mr. Hill, based on the first paragraph of this**
21 **document, are you able to determine when your formal**
22 **representation of Mr. Fletcher ended?**

23 MR. STARR: I'm just going to, for the record,
24 object on attorney/client privilege. This is a document

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1 that is marked attorney/client communication. The
2 plaintiff and defendants have previously conferred about
3 communications that happened after the representation.
4 We asserted privilege on those communications. So I'm
5 not going to waive that communication privilege now by
6 allowing you to ask question about this. So I am going
7 to instruct the witness not to answer any questions
8 about this document because it's been clawed back.

9 MS. SCHUMACHER: Agreed.

10 BY THE WITNESS:

11 A. I'm going to follow the instruction of the
12 attorneys and not give an answer to that question.

13 **Q. Mr. Hill, do you know if another attorney took**
14 **over the representation of Mr. Fletcher's criminal case**
15 **after sentencing?**

16 A. I don't have any personal knowledge of that.

17 **Q. Do you know an individual by the name of**
18 **Frederick Cohen?**

19 A. I do not.

20 **Q. In Mr. Fletcher's case, do you have knowledge**
21 **that a motion for a new trial with the grounds that**
22 **there was ineffective trial counsel was filed on behalf**
23 **of Mr. Fletcher?**

24 A. I know that in the criminal case such a motion

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1 was filed. I don't know any other -- I know that such a
2 claim was made, but I don't really remember, you know,
3 when and where or how it was presented.

4 **Q. Do you recall the specific allegations that**
5 **were -- or arguments that were set forth as to why trial**
6 **counsel was ineffective?**

7 A. I do not.

8 **Q. Do you know what happened to that motion?**

9 A. I do not. I mean, I know there was an appeal
10 taken, and there was no new trial. So I could assume
11 what happened, but I don't actually know what happened.

12 **Q. Okay. And I don't want to know about the**
13 **substance of any communications here, but when was the**
14 **last time you spoke with Mr. Fletcher?**

15 A. I might have talked to Jimmie in the last year
16 or so, sometime after he was released from prison.

17 **Q. Have you seen Mr. Fletcher in person since he**
18 **was released from prison?**

19 A. No.

20 **Q. Are you aware that Mr. Fletcher has obtained**
21 **affidavits from the eyewitnesses recanting the trial**
22 **testimony?**

23 A. I believe I read something to that effect as a
24 part of the habeas decision that Judge Pallmeyer wrote;

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1 but other than that, I don't have any real knowledge.
2 And she may have been recounting facts that happened
3 over the years in cases. So that would be the only
4 thing that I read recently about the case.

5 **Q. Did you continue to follow Mr. Fletcher's**
6 **postconviction proceedings after your representation in**
7 **the underlying criminal matter ceased?**

8 A. No.

9 **Q. When did you become aware that Mr. Fletcher**
10 **was released from incarceration?**

11 A. I don't remember when I became aware, but it
12 was sometime after Judge Pallmeyer's habeas decision.

13 **Q. And did you learn that Mr. Fletcher was being**
14 **released from incarceration as a result of reading the**
15 **order on the habeas?**

16 A. No.

17 **Q. Did you learn it from the media?**

18 A. No. I don't think so.

19 **Q. Did you learn that Mr. Fletcher was being**
20 **released from incarceration directly from Mr. Fletcher?**

21 A. I don't really recall how I found out Jimmie
22 was actually out of jail. At the time that the habeas
23 petition was granted, there was still the possibility of
24 a retrial. But sometime later I was informed -- I don't

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1 remember how -- but I found out that Jimmie had been
2 released.

3 **Q. When was the first time you became aware that**
4 **Mr. Fletcher had filed a civil lawsuit relative to the**
5 **Sorrell homicide that took place in December of 1990?**

6 A. I believe it was when we got a subpoena from
7 Loevy & Loevy for documents in this case that I am being
8 deposed in.

9 **Q. Prior to receiving that subpoena, had you had**
10 **any conversation with any of the attorneys at Loevy &**
11 **Loevy about the fact that they were filing a civil**
12 **lawsuit on behalf of Mr. Fletcher?**

13 MR. STARR: I'm going to object to the extent that
14 it calls for any work product. I think he can answer
15 that question generally. But beyond that, I think if
16 you're asking any details of any conversations he had
17 with Mr. Fletcher's representation, then it's work
18 product.

19 MS. WEST: No, not the details. Just if you ever
20 had any conversation.

21 BY THE WITNESS:

22 A. And specifically what is the question?
23 Allyson, you may be able to reform it without her having
24 to read it.

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1 Q. I will say it again.

2 Did you have any conversations with any
3 attorney or counsel from Loevy & Loevy about the fact
4 that they were -- Strike that. Let me try again.

5 Did you have any conversations with any
6 attorneys from Loevy & Loevy prior to receiving the
7 subpoena for documents?

8 A. No.

9 Q. Have you since had any conversations with any
10 attorneys from Loevy & Loevy after receiving the
11 subpoena for documents?

12 A. I have had one conversation with Mr. Starr in
13 preparation for this deposition.

14 Q. When did that conversation take place?

15 A. This past Friday.

16 Q. Was it over the telephone or in person?

17 A. It was over Zoom.

18 Q. I didn't ask this, did you review any
19 documents in preparation for today?

20 A. No.

21 Q. Did you have a conversation with
22 Mr. Fletcher -- Strike that.

23 Were you aware that Mr. Fletcher filed a
24 petition for certificate of innocence?

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1 A. No.

2 **Q. I'm almost finished, sir. I just have a**
3 **couple off-topic questions for you.**

4 Do you know an individual by the name of Larry
5 **Hoover?**

6 A. The name sounds somewhat familiar, but I can't
7 put it in any context or anything right now.

8 **Q. Was there ever any indication that an**
9 **individual by the name of Larry Hoover was involved in**
10 **getting Mr. Fletcher charged for the Sorrell homicide?**

11 MR. STARR: Can you read that back? I didn't hear
12 that question.

13 (Record read as requested.)

14 MR. STARR: Is there ever any indication?

15 MS. WEST: Correct.

16 MR. STARR: To the extent it calls for work
17 product -- and I don't know if it does -- but to the
18 extent it calls for work product, I would instruct him
19 not to answer. But if he could answer that without
20 revealing any work product, certainly.

21 BY MS. WEST:

22 **Q. Can you answer that question, Mr. Hill?**

23 A. I can't answer the question. I don't know
24 what the Sorrell homicide even is. So I don't know what

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1 you're asking me, actually.

2 Q. Okay. Let's start over then. I will
3 represent to you that the armed robbery homicide that
4 Mr. Fletcher was charged with was the homicide of an
5 individual named Willie Sorrell.

6 A. Okay.

7 Q. So when I say "Sorrell homicide," I'm
8 referring to the crime in which Mr. Fletcher was accused
9 of and ultimately convicted of that happened in December
10 of 1990. Do you understand?

11 A. Now, I understand who the Sorrell victim is,
12 but I don't remember the other part of the question now.
13 I apologize.

14 Q. I will start over.

15 Was there ever any indication that an
16 individual named Larry Hoover was involved in getting
17 Mr. Fletcher charged in that Sorrell homicide?

18 MR. STARR: Foundation, same objection and
19 instruction as before.

20 MS. SCHUMACHER: Agreed.

21 BY MS. WEST:

22 Q. Can you answer the question, Mr. Hill?

23 A. I am going to follow the instruction and not
24 answer the question.

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1 **Q. Are you aware that Mr. Fletcher was in a gang?**

2 MR. STARR: To the extent that is seeking any
3 communications, I would instruct him not to answer. But
4 he could certainly answer if he knows about any gang
5 membership otherwise.

6 BY THE WITNESS:

7 A. I don't know whether Mr. Fletcher was involved
8 in any gang at all. There may have been some statements
9 or allegations by other people in the course of the case
10 to that effect, but I have no knowledge that
11 Mr. Fletcher was in a gang.

12 **Q. Was there ever an indication that a rival gang**
13 **was involved in getting Mr. Fletcher charged with the**
14 **Sorrell homicide?**

15 A. Was there any allegation?

16 **Q. Let's do it that way. Was there ever any**
17 **indication or allegation made that a rival gang was**
18 **involved in getting Mr. Fletcher charged with the**
19 **Sorrell homicide?**

20 MR. STARR: To the extent it seeks communications
21 that he had with Mr. Fletcher, I would object on
22 attorney/client privilege. I am not sure if that is
23 what you're asking. But if that is an invasion of the
24 privilege, I would instruct him not to answer. To the

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1 extent that it implicates work product, again, I would
2 instruct him not to answer. I don't know that it does,
3 but I want to make those objections for the records.

4 MS. WEST: For the record, I'm not asking about
5 any -- Go ahead.

6 MS. SCHUMACHER: I just said agreed.

7 BY MS. WEST:

8 **Q. I don't want to know about any conversations**
9 **that you would have had with Mr. Fletcher about this.**

10 A. I am sorry. I totally had forgotten what the
11 question is. I thought it was going to come back to me
12 and it never did.

13 **Q. That is okay. It's been a long day. Let me**
14 **ask this again.**

15 **Was there ever any indication or allegation**
16 **made that a rival gang was involved in getting**
17 **Mr. Fletcher charged in the Sorrell homicide?**

18 A. And then we excluded conversations with
19 Mr. Fletcher?

20 **Q. Correct.**

21 A. So to be honest with you, I can't answer that
22 question because I don't remember exactly what was said
23 and who it was said by. I can't answer that question
24 because it would implicate -- it may implicate

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1 privilege, but I really don't know.

2 **Q. At the time of trial were photographs that**
3 **were used during the 2002 photo array introduced as**
4 **exhibits?**

5 A. I don't recall.

6 **Q. Do you recall there being an issue at all**
7 **during the trial about not having the 1995 photo array**
8 **that was shown to the eyewitnesses?**

9 A. I do vaguely remember an issue about that.

10 **Q. What do you recall?**

11 A. Well, not much more than what you said. I
12 think there was -- I can't remember whether it was
13 missing pictures or whether they didn't have the exact
14 set of things they used that they showed witnesses, but
15 I know there was some discrepancy, and we did not have
16 available to us certain of the evidence that was used in
17 the photograph lineup.

18 **Q. Do you recall specifically what photos you**
19 **didn't have access to?**

20 A. I don't recall the specifics of that.

21 **Q. Do you recall if the State had access to**
22 **photographs from the 1995 photo array?**

23 A. I don't recall that or know that.

24 **Q. I'm going to show you one final exhibit here,**

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1 **which we will mark as Exhibit 20.**

2 **For the record, it is Fletcher 8414. And it**
3 **is an October 16th, 2007 letter.**

4 **Do you have this document in front of you,**
5 **sir?**

6 A. I do.

7 MR. STARR: I'm going to object. This document
8 appears to resemble other communications that we
9 previously marked as privileged that exists between
10 Mr. Fletcher and his counsel -- previous counsel --
11 documents that we have previously indicated are
12 privileged and conferred about with defense counsel in
13 this case. So this document like others in this
14 deposition is subject to the clawback.

15 MS. SCHUMACHER: Agreed.

16 MS. WEST: Same position for me.

17 BY MS. WEST:

18 **Q. Do you see the second paragraph, Mr. Hill? I**
19 **just want to direct your attention to that. Do you see**
20 **a Detective Gilger, his name in that paragraph?**

21 A. Yes, I see it.

22 MR. STARR: I would instruct the witness not to
23 testify about this document given it's been clawed back.

24 BY MS. WEST:

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1 **Q. Do you recall ever having a conversation with**
2 **a Detective Gilger?**

3 MS. SCHUMACHER: Agree to Mr. Fletcher's counsel's
4 objections regarding this document for work product.

5 BY MS. WEST:

6 **Q. Let me get it down. Independent of this**
7 **document, do you recall having a conversation with a**
8 **Detective Gilger?**

9 A. No.

10 **Q. Do you ever remember seeing that document that**
11 **is in front of you that states in that same paragraph**
12 **that the government did not have the 1995 photos. They**
13 **did not produce them?**

14 MR. STARR: Same objection, same instruction.

15 MS. SCHUMACHER: Agreed.

16 BY THE WITNESS:

17 A. I'm going to following the instructions of the
18 attorneys.

19 **Q. Mr. Hill, you did have access to the 2002**
20 **photo array at the time of trial, correct?**

21 A. I don't recall what we had access to and what
22 year it was related to when things were shown. I don't
23 have a recollection of that.

24 **Q. Do you have a recollection of whether**

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1 **photographs from a photo array were introduced by any**
2 **party at trial?**

3 A. I don't have any recollection of what was
4 introduced at trial at this point with regard to photo
5 arrays.

6 MS. WEST: Those are all of the questions that I
7 have for you. Thank you very much for your time today.

8 Some of the other attorneys may have questions
9 for you.

10 MR. BURNS: Good afternoon. I don't have any
11 questions.

12 MR. STARR: I may have just a handful of questions,
13 but can we take a short five-minute break?

14 (A short break was had.)

15 EXAMINATION

16 BY MR. STARR:

17 **Q. Mr. Hill, good afternoon. Thank you for being**
18 **here. As you know, I am plaintiff's attorney. My name**
19 **is Sean Starr. I represent Mr. Fletcher. You**
20 **referenced the habeas decision. You had read the habeas**
21 **decision in Mr. Fletcher's case at some point; is that**
22 **correct?**

23 A. That's correct.

24 **Q. And so you're aware that Mr. Fletcher's**

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1 conviction was thrown out essentially, correct?

2 A. Yes.

3 Q. And then Ms. West asked you about Mr. Fletcher
4 filing a petition for certificate of innocence. Are you
5 aware that Mr. Fletcher did, in fact, receive his
6 certificate of innocence?

7 A. I don't think I was aware of it. If I was, I
8 didn't recall it.

9 Q. Okay. So I will represent to you that he has
10 received his certificate of innocence. Are you familiar
11 with what that document is or what that certificate is?

12 A. I don't think so.

13 Q. Okay. If I represented to you that it's a
14 court order that indicates that the individual who was
15 previously convicted of a crime was innocent of that
16 crime, does that make sense to you?

17 MS. WEST: Objection to foundation and form.

18 BY THE WITNESS:

19 A. It does make sense to me.

20 Q. And you did know that Mr. Fletcher has filed a
21 federal civil rights lawsuit alleging among other things
22 that the detectives in this case conspired to frame him
23 for a murder he did not commit, correct?

24 A. I am aware of that.

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1 Q. And, Mr. Hill, during your representation of
2 Mr. Fletcher during the criminal proceedings as his
3 criminal defense attorney, you did everything in your
4 power to properly and fully defend Mr. Fletcher,
5 correct?

6 A. Yes.

7 Q. Are you aware that Mr. Fletcher alleges that
8 material exculpatory evidence was suppressed by the
9 police during the course of their homicide
10 investigation?

11 MS. WEST: Objection to foundation and time period.
12 BY THE WITNESS:

13 A. I'm not sure that I'm aware of that particular
14 allegation.

15 Q. Mr. Hill, let me ask this, during your
16 representation of Mr. Fletcher during the criminal
17 proceedings, did you do everything in your power to
18 access any and all evidence the Chicago Police
19 Department possessed regarding their investigation into
20 the homicide and Mr. Fletcher?

21 A. Yes.

22 Q. At any point in your representation of
23 Mr. Fletcher, were you made aware of any material
24 exculpatory evidence that was being suppressed by the

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1 **Chicago Police Department?**

2 A. No. I don't believe so. I mean, we know that
3 there had been this Terry Rogers character who never
4 materialized, but it seemed that it didn't seem to me
5 that the State was necessarily hiding him, but he was
6 unavailable.

7 Q. And you represented Mr. Fletcher as if he was
8 innocent of the crimes that he was eventually convicted
9 for, correct?

10 A. Yes.

11 Q. And during your representation of Mr. Fletcher
12 you were -- Strike that.

13 You were previously asked about filing a
14 couple of motions during your representations of
15 Mr. Fletcher. Do you remember those questions?

16 A. Yes. Generally.

17 Q. Okay. One of the motions you filed was a
18 motion to suppress identifications and bar in-court
19 testimony of the witnesses that identified Mr. Fletcher,
20 correct?

21 A. That sounds, you know, accurate. I don't
22 remember the specifics of all of the motions that we
23 filed.

24 Q. And those motions to suppress were based on

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1 **allegations that Mr. Fletcher's constitutional rights**
2 **had been violated; is that right?**

3 A. Certainly we filed some motions directed at
4 his constitutional rights. In particular, the right to
5 cross-examine Terry Rogers or have his testimony
6 excluded for the trial --

7 Q. I'm sorry. I didn't mean to interrupt you.

8 A. -- prior to trial.

9 Q. The motions that you filed alleging violations
10 of Mr. Fletcher's constitutional rights, you did that
11 because you believe his constitutional rights have been
12 violated, correct?

13 A. Absolutely.

14 Q. And you previously testified that you're
15 familiar with your cocounsel Joseph Saltiel who worked
16 on Mr. Fletcher's defense, correct?

17 A. Yes. I know Joseph Saltiel.

18 Q. Do you have an independent recollection of the
19 work you and Mr. Saltiel did in the Fletcher case?

20 A. Do I have a recollection of our work on this
21 case?

22 Q. Of working with him?

23 A. Yes. I certainly remember working with him on
24 the case.

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1 **Q. Do you have any opinion of Mr. Saltiel's work**
2 **on Mr. Fletcher's criminal defense case?**

3 A. Mr. Saltiel did a great job on Mr. Fletcher's
4 case, worked very hard, was diligent with respect to
5 Mr. Fletcher's case.

6 **Q. Is your opinion that Mr. Saltiel's work on**
7 **Mr. Fletcher's case consistent with your opinion of his**
8 **work as an attorney in general?**

9 A. Yes.

10 **Q. And as you sit here right now to date, are you**
11 **aware of everything that the Jenner -- Strike that.**

12 As you sit here today, are you aware of
13 **everything that Jenner disclosed in response to the**
14 **subpoena in the civil case?**

15 A. No. I'm not aware of everything that was
16 disclosed in the civil case -- in this civil case.

17 **Q. And you were shown a number of documents**
18 **today. Some of them were objected to; is that correct?**

19 A. Yes.

20 **Q. And you're not waiving any privilege over the**
21 **work product that may or may not have been in that file**
22 **that was tendered in response to that subpoena, correct?**

23 A. That's correct.

24 **Q. Prior to Mr. Fletcher's criminal trial, do you**

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1 **recall whether or not you were made aware of any pattern**
2 **and practice of misconduct by the police that**
3 **investigated the underlying homicide?**

4 A. I wasn't aware of any pattern of misconduct
5 with respect to the police officers that were involved
6 in the case at the time of the trial.

7 **Q. Do you recall whether or not you subpoenaed**
8 **any of the disciplinary history of any of the officers**
9 **involved in the investigation?**

10 MS. WEST: Objection to foundation.

11 BY THE WITNESS:

12 A. I don't recall.

13 **Q. Let me ask you this, would it have been a**
14 **normal part of your work during your time doing criminal**
15 **defense to automatically subpoena a disciplinary history**
16 **to any police officer involved in an underlying**
17 **investigation?**

18 A. I don't recall. We generally approach -- I
19 generally approach that on a case-by-case basis.
20 Certainly in a number of criminal cases that I have been
21 involved in, the defense that was available and
22 applicable didn't necessarily hinge upon that. But I
23 have some awareness of some procedures to do that.

24 **Q. Fair enough.**

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1 **And in a case where you had been made aware of**
2 **a pattern and practice of misconduct, is that a case**
3 **where you would have on a case-by-case basis probably**
4 **subpoenaed the disciplinary histories of the officers**
5 **involved?**

6 MS. WEST: Objection to form.

7 BY THE WITNESS:

8 A. Yes.

9 **Q. So if you had known about any of the officers**
10 **involved in the Willie Sorrell homicide investigation**
11 **pattern and practice of misconduct back in 1995, would**
12 **you have likely subpoenaed their disciplinary history**
13 **during your representation of Mr. Fletcher?**

14 MS. WEST: Foundation.

15 BY THE WITNESS:

16 A. I believe that is the case, yes.

17 **Q. And in retrospect, do you wish you had known**
18 **about the officers involved in the Willie Sorell**
19 **homicide pattern and practice of misconduct during your**
20 **representation of Mr. Fletcher?**

21 MS. WEST: Objection to form and calls for
22 speculation.

23 BY THE WITNESS:

24 A. I wish that we had available to us all of the

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1 evidence and all of the witnesses that had knowledge of
2 what had gone on in the case and including any practices
3 of misbehavior. I think it would have been helpful to
4 the case.

5 **Q. If you had been made aware of a pattern and**
6 **practice of misconduct by the officers who investigated**
7 **the Sorrell homicide, might it have affected the way you**
8 **investigated the case?**

9 A. It's a hypothetical, but presumably, yes, we
10 would have taken a look at all of the facts and
11 circumstances and would have acted accordingly.

12 **Q. If you had been made aware of a pattern and**
13 **practice by the officers and detectives that**
14 **investigated the Sorrell homicide, might that have**
15 **affected the way in which you launched your criminal**
16 **defense of James Fletcher?**

17 MS. WEST: Foundation and speculation.

18 BY THE WITNESS:

19 A. Yes. Absolutely.

20 **Q. And do you think if you had been made aware of**
21 **the fact that the officers -- Strike that.**

22 **If you think you had been made aware that the**
23 **detectives involved in the Sorrell homicide had a**
24 **pattern and practice of misconduct, there is a**

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1 **possibility that might have affected the verdict in the**
2 **James Fletcher case?**

3 MS. WEST: Objection to form, foundation, calls for
4 speculation, legal conclusion.

5 BY THE WITNESS:

6 A. Yes.

7 Q. And you did, in fact, serve a number of
8 subpoenas in your crime defense of James Fletcher,
9 correct?

10 A. I believe that is the case, but I don't have a
11 specific recollection of the subpoenas we served.

12 Q. And if you had served subpoenas during
13 representation of Mr. Fletcher, you would have done so
14 in attempt to make sure that you had gotten all of the
15 relevant evidence that you needed in order to conduct
16 your investigation and mount your defense for James
17 Fletcher, correct?

18 A. Yes.

19 Q. And if you did, in fact, serve subpoenas, you
20 would have made every effort to make sure that those
21 subpoenas were properly responded to, correct?

22 A. Yes.

23 Q. Do you recall having any basis to believe that
24 you did not receive any of the documents that were

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1 **responsive to the subpoenas you served in the James**
2 **Fletcher case from the Chicago Police Department?**

3 A. As I sit here today, I don't recall being
4 aware of anything that was sufficient with respect to
5 what we received.

6 Q. Do you know -- Other than what you were able
7 to learn from police reports, do you know what
8 Detectives Bogucki and Schalk said to the witness Edward
9 Cooper during their investigation of the Willie Sorrell
10 homicide?

11 MS. WEST: Objection to foundation.

12 BY THE WITNESS:

13 A. Other than what would have been in the police
14 reports we have, I would have no knowledge of anything
15 that they would have said to Mr. Cooper during the
16 investigation.

17 Q. Is that also true about any other police
18 officers and what they may have said to Mr. Cooper
19 during the investigation?

20 A. Yes. The same would apply.

21 Q. If Mr. Cooper had told Detectives Bogucki and
22 Schalk that he could not identify anyone in the photo
23 array that they showed him, do you think that is
24 something that should have been documented in a police

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1 **report?**

2 A. Absolutely.

3 MS. WEST: Objection, calls for speculation.

4 MR. BURNS: Foundation.

5 BY MR. STARR:

6 **Q. If Detectives Bogucki and Schalk had pointed**
7 **out Mr. Fletcher's photograph to Mr. Cooper, is that**
8 **something that they should have disclosed to the**
9 **criminal defense during the Fletcher trial?**

10 A. Absolutely. It's exculpatory at a minimum.

11 **Q. If Detectives Bogucki and Schalk had**
12 **improperly coerced Mr. Cooper to identify Mr. Fletcher,**
13 **is that something you would like to have known as his**
14 **criminal defense lawyer?**

15 A. Absolutely. It goes to the credibility of
16 Mr. Cooper's testimony.

17 **Q. If Detectives Bogucki and Schalk had taken**
18 **notes of their interview with Mr. Cooper and the**
19 **information in those notes differed from the information**
20 **that they put in their police reports, is that something**
21 **that you would have liked to have had turned over to you**
22 **during your representation of Mr. Fletcher?**

23 A. Yes. If such a thing existed, that would have
24 been good to have.

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1 **Q. If those notes that -- Strike that.**

2 **If those notes had, in fact, conflicted with**
3 **the police reports, is that information that could have**
4 **affected the way in which you investigated this case?**

5 MS. WEST: Objection, foundation, misstates
6 evidence.

7 BY THE WITNESS:

8 A. I believe so.

9 **Q. If you had learned that Chicago Police had**
10 **failed to document that Mr. Cooper had been unable to**
11 **identify anyone and had told him he could not identify**
12 **anyone, is that something that could have potentially**
13 **affected the way in which you investigated this case and**
14 **defended Mr. Fletcher?**

15 MS. WEST: Objection, based on --

16 BY THE WITNESS:

17 A. Yes.

18 MS. WEST: -- on the extent it misstates the
19 evidence in the record.

20 BY MR. STARR:

21 **Q. If you learned that information, would that**
22 **information have potentially affected any pretrial**
23 **motions you might have filed?**

24 MS. WEST: Same objection.

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1 BY THE WITNESS:

2 A. Yes.

3 Q. Mr. Hill, do you have any recollection of
4 learning that Mr. Cooper met with the detective before
5 he participated in viewing the lineup in this case?

6 A. No. I'm not aware of that.

7 Q. Did you ever learn that the detectives told
8 Mr. Cooper how to remember Mr. Fletcher during his
9 participation in viewing the lineup?

10 MS. WEST: Objection, misstates evidence.

11 BY THE WITNESS:

12 A. No.

13 Q. If Detectives Bogucki and Schalk had, in fact,
14 met with Mr. Cooper and told Mr. Cooper how to remember
15 Mr. Fletcher during a lineup, is that something that you
16 would expect should be documented in a police report?

17 MR. STARR: Objection to foundation.

18 BY THE WITNESS:

19 A. Certainly.

20 Q. And if Detectives Bogucki and Schalk had
21 unduly influenced the lineup identification of
22 Mr. Fletcher, is that something that you would want to
23 have known during your criminal defense of Mr. Fletcher?

24 A. It would have been very helpful to know that.

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1 Q. And could that -- I apologize. I interrupted
2 you. I'm sorry, sir.

3 A. I just said during the investigation was the
4 last phrase.

5 Q. And that brings me to my next question. Would
6 that information if you had learned that Detectives
7 Bogucki and Schalk had unduly influenced the lineup, is
8 that something that might have affected the way you
9 investigated the case?

10 A. Yes.

11 Q. Is that something that might have affected the
12 way in which you mount your criminal defense of
13 Mr. Fletcher during his trial?

14 A. Yes.

15 Q. And is that something that could have impacted
16 the potential pretrial motions you may have filed with
17 the court?

18 A. Absolutely.

19 Q. Okay. Sir, do you know what Detectives
20 Bogucki and Schalk said to the witness Sheenee Friend
21 about the Sorrell homicide?

22 A. I don't have a specific recollection as I sit
23 here now. We had whatever was available to us and
24 police reports and what they testified to. So that

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1 would be the extent of my knowledge.

2 Q. Right. And so you had police reports to
3 review and you had whatever Ms. Friend said on the stand
4 when she testified, correct?

5 A. That's correct.

6 Q. And you previously testified in this
7 deposition that you recall Ms. Friend approaching you in
8 open court and saying something to the effect that she
9 wasn't sure about whether or not Mr. Fletcher was the
10 shooter; is that correct?

11 MS. WEST: Objection, misstates his prior
12 testimony.

13 BY THE WITNESS:

14 A. I am not sure if she approached me or I
15 approached her. We did have a conversation or an
16 exchange in court at least once.

17 Q. And did Ms. Friend at that point say anything
18 to you about what Detective Schalk and Bogucki had said
19 to her?

20 A. No, not specifically. She did not say.

21 Q. You don't know what any other Chicago police
22 officers said to Ms. Friend about the Sorrell murder
23 investigation, do you?

24 A. I do not, no.

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1 **Q. And if Ms. Friend had, in fact, told the**
2 **police detectives that she was completely unable to**
3 **identify Mr. Fletcher in the original photo array she**
4 **was shown, is that something that you would expect to be**
5 **documented in a police report?**

6 MS. WEST: Objection to foundation.

7 BY THE WITNESS:

8 A. In a perfect world, yes.

9 **Q. If Ms. Friend during her photo array had**
10 **indicated that she couldn't identify anyone and the**
11 **police had pointed out a photo and asked her to identify**
12 **that person, is that something that you would expect to**
13 **be documented in a police report?**

14 MS. WEST: Same objection.

15 BY THE WITNESS:

16 A. Yes.

17 **Q. And so if Detectives Bogucki and Schalk had**
18 **done those things and they had improperly coerced**
19 **Ms. Friend to identify Mr. Fletcher, is that something**
20 **you would have liked to have known during criminal**
21 **representation of Mr. Fletcher, sir?**

22 MS. WEST: Objection, foundation, misstates facts
23 in evidence.

24 BY THE WITNESS:

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1 A. Yes. It would have been something I would
2 have liked to have known and have documented and been
3 able to use.

4 **Q. And if the police had, in fact, conducted that**
5 **interview with Ms. Friend and documented that interview**
6 **in which she was unable to identify Mr. Fletcher and**
7 **taken notes on that, and those notes conflicted the**
8 **police report that they ultimately filed in this case,**
9 **would you have liked to have known that, sir?**

10 A. Absolutely.

11 MS. WEST: Objection to form, foundation.

12 BY MR. STARR:

13 **Q. Could that information have affected the way**
14 **you investigated this case?**

15 MS. WEST: Speculation.

16 BY THE WITNESS:

17 A. Yes.

18 **Q. And could that information have affected the**
19 **way in which you launched your criminal defense of**
20 **Mr. Fletcher?**

21 MS. WEST: Same objection.

22 BY THE WITNESS:

23 A. Yes.

24 **Q. Could that information have affected any**

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1 **possible pretrial motions you may have filed in this**
2 **case?**

3 A. Certainly. You would hope that I wouldn't
4 have had to file any pretrial motions because the
5 State's Attorney would have dismissed the case.

6 Q. And so I guess my next question is -- I think
7 you answered it, but could that information have
8 affected the outcome of this trial?

9 A. Certainly.

10 Q. Okay. And do you think that Mr. Fletcher --
11 the verdict in Mr. Fletcher's crime trial was accurate?

12 A. No.

13 MR. STARR: I have no further questions.

14 MS. WEST: I do.

15 I will try to be brief, Mr. Hill.

16 FURTHER EXAMINATION

17 BY MS. WEST:

18 Q. Counsel just asked you some questions about
19 Terry Rogers. Do you have any reason to believe that
20 the State was hiding Mr. Rogers from you or failing to
21 produce him at trial?

22 MR. STARR: Objection to form, foundation,
23 mischaracterizes the prior question that I asked.

24 BY THE WITNESS:

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1 A. I don't know what the State was doing with
2 respect to Terry Rogers. What was told to me is they
3 are trying to find him and they never did find him.

4 **Q. And, in fact, you previously testified that on**
5 **occasion the State said, in fact, that they weren't**
6 **ready for trial because they were still attempting to**
7 **locate witnesses, correct?**

8 A. I believe that there were some continuances
9 that were based on the unavailability of witnesses
10 including Terry Rogers and I believe sometimes also
11 Sheenee Friend.

12 **Q. And you and your firm were unsuccessful in**
13 **locating Mr. Rogers, correct?**

14 A. I did not ever locate Mr. Rogers.

15 **Q. And your firm made attempts to locate**
16 **Mr. Rogers, correct?**

17 MR. STARR: I think that goes into work product. I
18 am going to object and instruct him not to answer.

19 BY THE WITNESS:

20 A. I'm going to follow my attorney's instruction.

21 MS. WEST: There is a letter, the ASA, the one I
22 previously used where they talked about communications
23 for trying to locate Rogers. If you would like me to
24 pull that up and find what I am talking about, but I

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1 don't think there is anything that is privileged.

2 MR. STARR: If that is correct, I will withdraw
3 that objection. I don't recall that. If you're
4 representing that, I will withdraw that objection.

5 BY THE WITNESS:

6 A. I'm not sure what the question was, but we
7 never were able to locate Terry Rogers.

8 **Q. The question was whether or not you had taken**
9 **any attempts to locate him?**

10 A. As I sit here today, I recall that we did. I
11 couldn't give you the specifics of that.

12 **Q. Did the State indicate to you that they had**
13 **difficulty locating Mr. Rogers as well?**

14 A. I don't remember what they said about locating
15 him. There seemed to be some -- from what I recall,
16 some indication that maybe he was in Mississippi
17 somewhere, but he never showed up. And, you know, I
18 think the state had some interest -- or maybe they
19 didn't because of all of the facts I know now. But
20 based on what I understood the facts to be back before
21 the trial, I thought that the State had an interest in
22 bringing Terry Rogers in because he was at least in all
23 of the records indicated as the person who first
24 identified Fletcher as being some type of perpetrator,

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1 but maybe -- The State obviously knew more than I knew
2 at that point in the case.

3 **Q. And it's your understanding that Mr. Rogers**
4 **was an out-of-state witness at the time of trial,**
5 **correct?**

6 A. I have a vague recollection of statements
7 being made that he was somewhere in Mississippi.

8 **Q. Okay. And do you have a memory of the State**
9 **advancing a motion for the Court to enforce an**
10 **out-of-state subpoena on an out-of-state witness?**

11 A. I don't have any particular recollection of
12 that. It may have happened, but I don't have a
13 particular recollection of that.

14 **Q. And, Mr. Hill, as a lawyer, you know that you**
15 **can't enforce a subpoena from another jurisdiction upon**
16 **an individual who was not residing within that**
17 **jurisdiction, correct?**

18 A. I know there are some rules regarding
19 subpoenas, they vary by state and by what the issues
20 are, I believe, as well, so I can't say for certain
21 whether he was out of the subpoena power of Illinois,
22 but I do know there are some vagaries with respect to
23 subpoenas then trying to reach people who are out of
24 state.

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1 **Q. And counsel asked you about documents that**
2 **were tendered from Jenner & Block as a result of the**
3 **subpoena. Generally, do you recall him asking you**
4 **questions about that?**

5 A. Generally, I remember there were questions
6 about documents and they obviously came from Jenner's
7 files.

8 **Q. So you are aware that documents were produced**
9 **from your firm, correct?**

10 A. I'm aware that my firm produced documents to
11 Loevy & Loevy in response to a subpoena.

12 **Q. Are you aware that those documents were**
13 **strategically produced to Loevy & Loevy in order for**
14 **Loevy & Loevy to conduct a privileged review of those**
15 **documents prior to tendering them in discovery?**

16 MR. STARR: Objection to form.

17 MS. SCHUMACHER: Agreed.

18 BY THE WITNESS:

19 A. What was the question?

20 **Q. Sure.**

21 **Are you aware that those documents were**
22 **strategically tendered to Loevy & Loevy for a privileged**
23 **review to be conducted prior to the documents being**
24 **transmitted in discovery in this current litigation?**

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1 MR. STARR: Form and I'm going to add foundation.

2 BY THE WITNESS:

3 A. I don't know the specifics. I was served with
4 the subpoena. I spoke to my wonderful firm counsel and
5 lawyers about that. And I knew that there would be a
6 privilege review as there typically should be with all
7 document productions. But the specifics of what it was
8 and who was doing what, thankfully were hidden from me
9 and not something I was concerned with.

10 **Q. Do you have an understanding that Loevy &**
11 **Loevy was the law firm that was conducting that**
12 **privileged review?**

13 MR. STARR: Same objections.

14 MS. SCHUMACHER: Agreed.

15 BY THE WITNESS:

16 A. I don't know that I knew the specifics of that
17 at all. I knew that we were asked to produce some
18 documents. And these documents were going to be
19 collected and produced and would be reviewed for
20 relevance and privilege and other things by someone.
21 But who would do it, I wasn't privy to.

22 **Q. You weren't asked to do a privilege review,**
23 **correct?**

24 A. Thankfully, no. I was not asked to do a

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1 privilege review.

2 **Q. Do you know whether or not any documentation**
3 **was withheld by the Chicago Police Department relative**
4 **to their investigation into the Willis Sorrell homicide?**

5 A. I don't know what documents were withheld
6 related to the Sorrell investigation.

7 **Q. Do you have any reason to believe that you**
8 **didn't have the universe of documents from either**
9 **Chicago Police Department or the State's Attorney's**
10 **Office prior to trying the criminal case in 2005?**

11 A. You know, what I recall is that we thought we
12 had all of the documents that they needed to produce and
13 were required to produce. If we thought that we didn't,
14 I think we would have tried to get the documents. So,
15 yeah, we were under the belief that the State was acting
16 in good faith, that the police were acting in good
17 faith, that we were being provided the correct
18 information and used that as a basis to mount a defense.

19 **Q. And no evidence was used against Mr. Fletcher**
20 **in trial that hadn't previously been identified by the**
21 **State, correct?**

22 A. Well, you know, there had been -- Evidence had
23 been excluded by the judge in particular with regard to
24 Terry Rogers because he was unavailable for

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1 cross-examination. And the State nonetheless introduced
2 that evidence in spurts over the course of the trial is
3 the way that I recall it. So I don't know if that is
4 responsive to your question or not. But the State
5 certainly had, you know, some amount of ability to
6 effect what was presented in terms of evidence. And in
7 spite of what I recall was a motion to exclude testimony
8 based on the 6th Amendment, the State still got that
9 evidence in, partly from the police officers.

10 **Q. And you had access to police reports where**
11 **Terry Rogers was identified, correct?**

12 A. I had police reports that identified Terry
13 Rogers, yes.

14 **Q. And those documentations were either given to**
15 **you from the Chicago Police Department or the State,**
16 **correct?**

17 A. I believe that is correct.

18 **Q. And the evidence that was introduced at trial**
19 **over your objection relative to Terry Rogers was**
20 **evidence that you had prior to trial, correct?**

21 A. No. I don't know that that is correct.

22 **Q. What was the evidence that was introduced at**
23 **trial that you didn't have in pretrial relative to**
24 **Mr. Rogers?**

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1 A. Well, I'm not sure if we had actually the
2 testimony as it came out of the police officers before
3 trial. We didn't have access to them other than their
4 reports as I recall. So I can't say that for sure one
5 way or the other. Now you can go and scour a transcript
6 and see what you find. You have got all of the records
7 now, but that is not my impression.

8 **Q. Let me ask it this way: Was there any piece**
9 **of paper or document that was introduced relative to**
10 **Terry Rogers that you didn't have access to prior to the**
11 **trial?**

12 A. I don't know. I don't know, quite frankly. I
13 don't know what they had on Terry Rogers.

14 **Q. Did you issue a separate subpoena for any**
15 **documentation relative to Terry Rogers and his criminal**
16 **background with the Chicago Police Department?**

17 A. I don't recall the specifics of that. I
18 remember reading in one of the agreements, and I know
19 from some other criminal cases, that the State's
20 attorneys typically provide all of the information
21 regarding the witness's right before trial including all
22 of their arrest records, which back at that time I don't
23 think were the same as the type of records we could get
24 ourselves. So I don't know because Terry Rogers never

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1 showed up to trial. I'm not sure. I can't say for
2 certain what we viewed with regard to Terry Rogers
3 because by the time we got to trial and we got some
4 information about arrest and that sort of thing, it was
5 pretty clear he wasn't going to be a witness.

6 **Q. And as a part of your motion for discovery,**
7 **the universe of the documents that you just spoke about,**
8 **criminal background, any evidence that supported the**
9 **witnesses involved in any underlying investigation all**
10 **would have been subject to the defense's motion for**
11 **discovery that was propounded on the State, correct?**

12 A. As far as I know sitting here, there was a
13 request for discovery that should have turned over the
14 relevant information.

15 **Q. Okay. And I know we touched on this briefly**
16 **earlier. Among that motion for discovery, there would**
17 **have been a request for any exculpatory information as**
18 **well, correct?**

19 A. You would have to go and look at the motion.
20 I haven't read it, but I know that there is a
21 constitutional requirement that exculpatory evidence be
22 given over to the criminal defendants.

23 **Q. I just want to be clear. I am not sure I**
24 **heard your testimony correctly. At the time of trial,**

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1 **were you made aware of or given any information about an**
2 **allegation that there was a pattern and practice of**
3 **misconduct by any of the detectives involved in the**
4 **investigation?**

5 MR. STARR: Asked and answered.

6 BY THE WITNESS:

7 A. Obviously things have happened over a period
8 of time. The best I can recall going back -- Ask your
9 question. Let me hear the question again.

10 MS. WEST: Can you read it back?

11 (Record read as requested.)

12 BY THE WITNESS:

13 A. No. I don't remember receiving any such
14 information.

15 **Q. Do you have any reason to believe that you**
16 **didn't have all of the relevant information and evidence**
17 **at the time of trial?**

18 MR. STARR: Objection, asked and answered.

19 BY THE WITNESS:

20 A. At the time of trial, I didn't have any reason
21 to believe that. I mean, there are facts that come out
22 subsequent to the trial regarding some of the behaviors
23 of these officers that suggest otherwise. You know,
24 whether that is documented in papers, I don't know. But

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1 there certainly has been more information that has come
2 out over a period of time that reflects the truth of
3 what was happening back before trial.

4 **Q. And who is the source of that information?**

5 A. The information I referred to in my answer?

6 **Q. Yes.**

7 A. There has been public and news reports and
8 other information that has come out, I think, about
9 these officers, in particular about the patterns and
10 practices of the police department in general, and about
11 certain officers.

12 **Q. And specific to these detectives -- and when I**
13 **say these detectives, I am referring to Detective**
14 **Bogucki and Detective Schalk. What source are you**
15 **relying on when you're saying that new things have come**
16 **to light since the case?**

17 A. My major source is Judge Pallmeyer's report
18 for granting the motion. I can't think of the term now.
19 I should have had food earlier. But, you know, that and
20 other things. I haven't done any research on these
21 officers to see what all of the information is, but the
22 suggestion is that they have been involved in pattern
23 and practices before with regard to other cases. I
24 think that is documented in the press, but I didn't do a

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1 research project on it or try to document it for this
2 particular deposition. But that's my understanding.
3 Also in the context of the world that we live in where
4 there is plenty of patterns and history of police
5 misconduct.

6 **Q. Okay. And you haven't done any independent**
7 **investigation into the allegations against**
8 **Detectives Bogucki and Schalk relative to a pattern and**
9 **practice of misconduct, correct?**

10 A. I haven't done any personal investigation. I
11 have relied upon the reports and the press that reflect
12 I believe some court actions and other things against
13 these particular officers.

14 **Q. Ms. Friend, she never testified at trial that**
15 **the police told her to pick out Mr. Fletcher in the**
16 **photo array or the lineup, correct?**

17 A. To the best of my knowledge, she did not
18 testify to that at the trial.

19 **Q. And when you spoke with Ms. Friend in court,**
20 **she never indicated to you that the detectives told her**
21 **to pick out Mr. Fletcher in the photo array or the**
22 **lineup, correct?**

23 MR. STARR: Asked and answered.

24 BY THE WITNESS:

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1 A. I'm not sure what you're -- I'm not sure what
2 you're trying to elicit in that particular question.
3 You know, Ms. Friend, as I think I indicated earlier,
4 indicated some doubt about whether it was Fletcher or
5 not in some of the conversations that I had with her;
6 but this woman was brought into court, you know, every
7 so often when they -- there was a trial date and she was
8 in the custody of the police is basically the only way
9 they got her to trial. And ultimately at trial she
10 said, you know, that Fletcher was the guy. I believe
11 she said she was a hundred percent sure despite the fact
12 she couldn't identify a characteristic or a piece of
13 clothing on the other perpetrator who supposedly
14 committed this crime. So, you know, I am not sure what
15 you're searching for with regard to Ms. Friend, but the
16 circumstances she was under was clearly duress from my
17 observation coming to court and seeing her at trial.

18 **Q. Counsel asked you some questions about**
19 **Mr. Cooper. And he asked you whether or not Mr. Cooper**
20 **indicated that the police -- Strike that.**

21 **Counsel asked you a question about Mr. Cooper**
22 **and whether Mr. Cooper had identified to you that he was**
23 **not a hundred percent sure in his identification of**
24 **Mr. Fletcher in the photo array. Do you recall that?**

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1 A. Not exactly like that. But go ahead.

2 Q. Okay. So counsel indicated that -- Strike
3 that.

4 Let me ask it this way. In that report we
5 looked at previously with your investigator Mr. Zarnick,
6 he indicated during his conversation with Mr. Cooper
7 that Mr. Cooper indicated that, in fact, the police
8 visited him first before he reviewed the lineup and
9 showed him a photo array, correct?

10 A. I don't remember the specifics of that
11 document. And I believe there were objections to the
12 substance of that document that is relayed in a work
13 product.

14 Q. Let me pull it up for you. It is Exhibit 13.
15 It is Bates-stamped Fletcher 546 to 547. Do you see on
16 the first page that second paragraph under where it
17 lists Edward Cooper's name that begins with Mr. Cooper
18 stated?

19 A. Yes.

20 Q. Okay. In this document in that paragraph,
21 Mr. Cooper -- as documented by Mr. Zarnick, Mr. Cooper
22 told Mr. Zarnick that the police had visited him at his
23 house and showed him 12 pictures of various individuals.
24 Do you see that?

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1 A. I see that.

2 Q. If you go on down to the next page, it will be
3 the next paragraph starting with, Approximately two to
4 three days later. Do you see that paragraph?

5 A. I see it.

6 Q. It says, Mr. Cooper visited the Chicago Police
7 Department to view a police lineup. Do you see that?

8 A. I see that.

9 Q. So based on the conversation that Mr. Zarnick
10 had with Mr. Cooper, the detective, in fact, had met
11 with Mr. Cooper prior to him viewing the lineup,
12 correct?

13 A. That is what this report says. I don't know
14 that to be the case. But that is what is in this
15 report. And I don't know that I knew that to be the
16 case back when I was doing this trial.

17 Q. What is the date on that report, sir?

18 A. If I could date it, September 28, 2004.

19 Q. And that was before the trial commenced,
20 correct?

21 A. I believe the trial was in February of 2005.

22 Q. And, typically, when you hire a private
23 investigator to locate a witness, is the information
24 that they obtained made a part of your file?

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1 A. I'm not sure if that is true in every
2 circumstance.

3 **Q. Do you have any reason to believe why this**
4 **report from Mr. Zarnick would not have been included in**
5 **your file?**

6 A. I don't know anything about this document
7 sitting right here today. I didn't produce it to you.
8 I didn't review it in a file. I don't remember it, so I
9 don't know where it came from.

10 **Q. But from the face of the document, it appears**
11 **it's directed to Mr. Saltiel at Jenner & Block, correct?**

12 A. That's true.

13 **Q. You, in fact, did file a motion to suppress in**
14 **this case, correct?**

15 A. I believe we filed several motions including a
16 motion to suppress, a motion to exclude.

17 **Q. What was the motion to exclude?**

18 A. I believe we filed a motion to exclude
19 testimony related to Terry Rogers, but I haven't gone
20 back to look at the file in a while. I believe there
21 was a motion to basically exclude anything related to
22 Terry Rogers that came from Terry Rogers because he
23 wasn't there to be cross-examined.

24 **Q. Ultimately, Mr. Hill, Mr. Fletcher was**

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1 **convicted by a jury, correct?**

2 A. He was, yes.

3 MS. WEST: That is all that I have.

4 I don't know if Dan has questions or not.

5 MR. BURNS: I don't.

6 MR. STARR: I don't have any further questions
7 either. Thank you, Mr. Hill.

8 MS. WEST: Thank you, Mr. Hill. I appreciate your
9 time.

10 MR. STARR: I think there is one more thing.

11 MS. WEST: I know I put this on the record
12 previously, but I just want to make sure that I do it
13 again at the end of the deposition, that we are
14 reserving the right to redepose Mr. Hill based on the
15 assertions of privilege by Mr. Starr related to the
16 documentation that was produced by Loevy & Loevy a year
17 and a half ago.

18 MR. STARR: It's our position that we have clawed
19 back all of those documents and, therefore, there is no
20 reason to redepose Mr. Hill.

21 MS. WEST: We can go off.

22 MR. STARR: Do you want to reserve or waive
23 signature?

24 MS. WEST: I'm sorry.

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1 Ashley, what would you like to do with
2 signature?

3 THE WITNESS: I will read it.

4 MS. SCHUMACHER: We will look at it.

5 MS. WEST: Reserve?

6 MS. SCHUMACHER: Yes.

7 MS. WEST: Susie, I would like to order.

8 (Witness excused.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES FLETCHER JR.,)
)
Plaintiff,)
)
v.) No. 20 CV 4768
)
JEROME BOGUCKI, ANTHONY NORADIN,)
RAYMOND SCHALK, ANTHONY WOJCIK,)
UNKNOWN CITY OF CHICAGO POLICE)
OFFICERS, and the CITY OF)
CHICAGO,)
)
Defendants.)

I, REGINALD HILL, state that I have read the foregoing transcript of the testimony given by me at my deposition on the 17th day of January, 2024, and that said transcript constitutes a true and correct record of the testimony given by me at the said deposition except as I have so indicated on the errata sheets provided herein.

REGINALD HILL

No corrections (Please initial) _____
Number of errata sheets submitted _____ (pgs.)

SUBSCRIBED AND SWORN to
before me this _____ day
of _____, 2024.

NOTARY PUBLIC

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1 UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF ILLINOIS)
2 EASTERN DIVISION) SS.
STATE OF ILLINOIS)
3 COUNTY OF COOK)
4

5 We, Amie Panagakos and Susan J. Gardner,
6 Certified Shorthand Reporters, do hereby certify that
7 REGINALD HILL was first duly sworn by us to testify to
8 the whole truth and that the above deposition was
9 reported stenographically by us and reduced to
10 typewriting under our personal direction.

11 I further certify that the said deposition was
12 taken via videoconference and that the taking of said
13 deposition commenced on January 17, 2024.

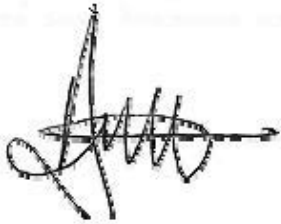
14 I further certify that we are not a relative
15 or employee or attorney or counsel of any of the
16 parties, nor a relative or employee of such attorney or
17 counsel, nor financially interested directly or
18 indirectly in this action.

19 The signature of the witness, REGINALD HILL,
20 was reserved by agreement of counsel.
21
22
23
24

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Witness our signatures as Certified Shorthand
Reporters in the State of Illinois, on January 29th,
2024.



AMIE PANAGAKOS
CSR No. 084-4720



SUSAN J. GARDNER
CSR No. 084-004155

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